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# 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.

The Reverend Bobby C. Dagnel, Pastor, First Baptist Church, Lubbock, Texas, offered the following prayer:

Our most gracious heavenly Father, we offer thanksgiving for this day of life and the opportunities it brings. We acknowledge that the freedoms afforded us by this great democracy creates within us not a license to do as we please, but a responsibility to act in a way that pleases You.

As this capable body of elected public servants entertain the multitude of issues before them, I pray they might have the wisdom of Solomon, who urged us to look neither right nor left but to keep our eyes fixed straight ahead; to do what is right; to do that which reflects the true spirit of democracy, giving consideration to and deeming of equal importance the rights and freedoms of every person, whether in the majority or the minority, of both the strong and the weak.

We remember, also, this day, those who stand in harm's way to protect and promote these very tenets of democracy we hold dear. In Your name we pray, O Lord, Amen.

## THE JOURNAL

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

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

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Florida (Ms. ROS-LEHTINEN) come forward and lead the House in the Pledge of Allegiance.

Ms. ROS-LEHTINEN 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.

## HONORING THE REVEREND BOBBY DAGNEL

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

Mr. NEUGEBAUER. Mr. Speaker, I rise today to honor someone who is very important to me in my life, and that is my pastor, Bobby Dagnel.

Bobby Dagnel opened today's session of the United States House of Representatives with an invocation that should guide us throughout the day as we do the people's business in the halls of the United States Congress.

Pastor Dagnel began his senior pastorship at First Baptist Church in Lubbock on August 4, 2002. He completed his undergraduate work at the University of Texas at Tyler in 1985. And he went on to Southwest Baptist Theological Seminary where he received his Master's in Divinity in 1987. He is currently pursuing his Doctor of Ministry at George W. Truett Seminary.

As Pastor Dagnel has traveled down this path, he has become a man of steadfast faith. He understands personally what it means to transform one's life from one without direction to one that is full of purpose and meaning. Pastor Dagnel is a wonderful family man, a loving husband to his wife, Patti, and a father to his daughter, Courtney, who is 14, and to his son, Hunter, who is 12.

I want to thank Pastor Dagnel for answering the call to help others find their way and serving as an example for all that follow. God Bless Pastor Dagnel.

## RESIGNATION AS MEMBER OF CERTAIN STANDING COMMITTEES OF THE HOUSE

The SPEAKER laid before the House the following resignation as a member of the Committee on Agriculture, the Committee on Government Reform, and the Committee on the Budget:

HOUSE OF REPRESENTATIVES,
*Washington, DC, September 28, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker of the House, The Capitol, Washington, DC.*

DEAR MR. SPEAKER: I hereby resign from the House Agriculture, Government Reform and Budget Committees due to my appointment to the House Committee on Rules.

Sincerely,

ADAM H. PUTNAM,
*Member of Congress.*

The SPEAKER. Without objection, the resignations are accepted.

There was no objection.

## ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. PENCE. Mr. Speaker, I offer a resolution (H. Res. 806) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 806

*Resolved*, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Committee on Government Reform: Mr. Cantor.

Committee on Rules: Mr. Putnam.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## THE WAR ON TERROR

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

Mr. STEARNS. Mr. Speaker, whoever is elected President will face the prospect of another terrorist attack. The



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question is: Will we have the right policies in place to best protect our country?

George Bush has waged an aggressive war on terror by going on the offense. He has taken the fight to the terrorists rather than waiting to fight them in our cities and on our streets.

On the other hand, his critics have demonstrated, I believe, a fundamental misunderstanding of the war on terror, saying that by going on the offense, America has caused the creation of more terrorists. The critics fail to articulate how they would deal with the gathering threat and, if we are attacked again, what would be their strong response.

Mr. Speaker, as we wage the war on terror and determine which policy can best keep America safe, this is at the heart of our national debate and an important part of the choice that all Americans will have to make on November 2.

## THE SITUATION IN IRAQ IS GETTING WORSE

(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, today the Washington Post quotes a former CIA official who said, ''People at the CIA are mad at the policy in Iraq because it's a disaster . . . The best we can hope for is a failed state hobbling along.'' But this view is widely shared in every branch of government. The State Department official warning to travelers from September 17, ''Iraq . . . remains very dangerous.''

An army officer recently back from Iraq said, ''It is getting worse . . . They have infiltrators conducting attacks in the Green Zone. That was not the case a year ago.'' A National Intelligence Estimate from July said that among the three possible scenarios for Iraq, the best case was merely ''tenuous stability.'' A study by Kroll Security International shows that the number of daily attacks has increased from 40 per day to around 70 each day. On Meet the Press, General Abizaid said, ''We will fight our way through the elections.'' ''Through,'' not up to the elections.

And this weekend, Secretary of State Colin Powell said, ''Yes,'' Iraq is ''getting worse.'' It is getting worse, but we do not know it from the President's comments who says and sees Iraq as a success.

The President of the proud of the fact that he does not read the newspapers. Can somebody please arrange a briefing for the President?

## RECOGNIZING THE CENTURY COUNCIL AND NICKELODEON

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

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to congratulate and recognize The Century Council and Nickelodeon for their creation of an innovative new program to educate middle-school-age students about the problems of underage drinking.

The Century Council is a national not-for-profit organization funded by America's leading distillers to develop and implement programs designed to stop drunk driving and underage drinking. Nickelodeon, the very popular children's TV network, has joined The Century Council on a creative multimedia program for middle-school-age kids and their parents called ''Ask, Listen and Learn: Kids and Alcohol Don't Mix.''

As a mother of two teenage daughters, I realize the critical role that parents play in the efforts to reduce and eliminate illegal underage drinking. I commend The Century Council and Nickelodeon for providing such a dynamic and valuable communications tool.

## THE WAR IN IRAQ

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

Ms. SOLIS. Mr. Speaker, since the Iraqi War started, nine soldiers have died in my district, all under the age of 30, and I attended some of their funerals.

As of to date, 1,051 servicemen and women have been killed in Iraq, and more than 7,500 have been injured.

Our servicemen and women are serving this Nation with honor and demonstrating great courage beyond our belief. Yet the actions of our President are not helping to ensure their safety and security. While their job is to fight, ours is to protect them.

The violence is not stopping. The streets are not safer. Our soldiers and Iraqi citizens continue to be at risk and are dying.

The U.S. had a plan to topple Baghdad, but it did not have a plan to adequately win and secure the peace. We need to secure the Nation. We need to equip it with the tools to protect and defend itself. And we need to establish peace.

What we need is new direction in Iraq. We need strong leadership and accountability, and we need to make sure that whatever this government provides in terms of funding is actually made available so that all our military on the ground has sufficient equipment and supplies that are needed.

## IN SUPPORT OF THE DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

(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 in strong support of a measure we will consider today in the Congress authored by the gentleman from Indiana (Mr. SOUDER). It is the District of Columbia Personal Protection Act, and there will be much sound and fury throughout the day and perhaps this evening on this measure.

The measure actually overturns local District of Columbia laws that ban the sale and possession of hand guns, ammunition and certain types of semiautomatic weapons to law-abiding citizens in the District of Columbia.

I believe that guns in the hands of law-abiding Americans actually save lives, and there will be arguments and statistics on both sides of that debate. But I rise very briefly to begin the argument, specifically to refute what I believe will be the false federalism argument that many will employ today, to say that the District of Columbia has the right to pass its own gun laws even when, in so doing, they ban and discriminate against the blood-bought right to keep and bear arms that is enshrined in the Constitution.

Let us be clear on this point and this definition of federalism: No State has the right to legislate away the blood-bought constitutional right of every law-abiding American to protect their person, their family and their liberty.

□ 1015

## CONSISTENTLY WRONG ON IRAQ

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

Mr. PALLONE. Mr. Speaker, President Bush brags about how consistent he has been in his policy on Iraq. Unfortunately, Mr. Speaker, the President has been consistently wrong.

President Bush was wrong about weapons of mass destruction. He was wrong about any connection between Saddam Hussein and al Qaeda. He was wrong about not working to bring in our allies to join us in the war against Iraq. He was wrong about sending our troops into battle without the protective gear that they needed. He was wrong when he declared ''mission accomplished,'' and wrong again when he challenged terrorists to ''bring it on.'' Finally, He was wrong when he did not plan for the aftermath of the fall of Baghdad.

Mr. Speaker, President Bush has certainly been consistent about Iraq, but he has been consistently wrong.

## INDONESIA HOLDS FIRST NATIONAL PRESIDENTIAL ELECTION

(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, last week Indonesians voted directly for the first time to elect their new president. The Charleston Post

and Courier reported this marked ''a milestone on the road to democracy for the world's most populous Muslim nation.'' Both competing candidates were pro-American in the global war on terror.

This historic election is another nail in the coffin of the lie that Muslim nations cannot become democracies. India, the world's largest democracy, has over 200 million Muslims. In Afghanistan, 10 million have registered to vote, despite threats from remnants of the Taliban and al Qaeda. The same will happen in Iraq.

As Iraqi Prime Minister Ayad Allawi said to the defeatists last week in this room, ''Above all, they risk underestimating the courage, determination of the Iraqi people to embrace democracy, peace and freedom, for the dreams of our families are the same as the families here in America and around the world.''

Freedom and democracy are on the march throughout the Muslim world, and they are the greatest threat to the dark plans of terrorists who want to destroy American families.

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

## PROVIDE ADEQUATE HUMANITARIAN ASSISTANCE TO THE CARIBBEAN

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

Ms. LEE. Mr. Speaker, I rise today to call attention to this devastating hurricane season's effect on the Caribbean. I urge Members of this body to cosponsor H. Con. Res. 496, a bipartisan effort supporting adequate humanitarian assistance to our neighbors in the Caribbean.

Americans, especially Florida and Californians, know firsthand the suffering caused by natural disasters, hurricanes, fires, tornadoes and earthquakes. Four hurricanes in 5 weeks, over 1,700 dead, 441,000 individuals displaced. More than 15 Caribbean countries are devastated.

In Grenada, the schools will not open until 2005. The land is barren and countless homes are destroyed. Many other Caribbean countries are so focused on assisting their neighbors that they have not even had the time and opportunity to assess their own damage.

Economies are overwhelmed. The tourism industry just barely recovered from 9/11, and now more harsh blows. Primary crops, bananas, nutmeg and sugar, destroyed.

Mr. Speaker, we really do need to step up and lend a helping hand. We cannot sit back and wait as people suffer in Florida and in the Caribbean.

Please support H. Con. Res. 496. Again, this is a bipartisan effort to support humanitarian assistance to our neighbors in the Caribbean.

## MARKING 150TH ANNIVERSARY OF FOUNDING OF REPUBLICAN PARTY

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

Mr. COX. Mr. Speaker, this year is the 150th anniversary of the founding of the Republican Party. Over a century and a half, from the abolition of slavery, to the enactment of women's suffrage, to the liberation of millions of people in the Soviet Union, Afghanistan and Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

So that all of us can learn more about the achievements of this fundamentally American institution in its 105th anniversary year, the Republican Policy Committee has produced this 2005 Republican Freedom Calendar, each day recording a milestone Republican achievement in advancing the civil rights of every American.

This past Sunday, 144 years ago, Republicans honored suffragist leaders Elizabeth Cady Stanton and Susan B. Anthony for their work in electing Republican candidates. Over Democratic opposition, Republicans in Congress enacted the women's suffrage amendment to the Constitution, giving women the right to vote. And even before voting for women was legalized, Susan B. Anthony cast a ballot, and when she was arrested for voting illegally, she bragged to the press, ''I voted the Republican ticket straight.''

Mr. Speaker, the 2005 Republican Freedom Calendar is available on the Internet at policy.house.gov.

## AMERICA'S PRIORITIES IN SUSPENDED ANIMATION

(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 see the Republicans have planned a very busy week. The House passed nearly three dozen bills last night, all without debate. That has to sounds impressive. The House unanimously passed legislation on everything from naming a post office to snake control. It is known as the suspension calendar. It means its Republicans have placed the House in suspended animation until after the election.

Does a post office need a name? Sure. But America needs affordable health care first, and is not getting it; America needs consumer confidence, and the Republicans are not providing that; and America needs a plan to deal with the chaos in Iraq. But forget that under this administration. That is why they are changing the story of why we went to Iraq in the first place.

America's priorities have been in suspended animation for 4 years. But the wake-up call is coming on the 2nd of November.

## OPPOSITION TO RELAXING GUN CONTROL LAWS IN THE DISTRICT OF COLUMBIA

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

Mr. MORAN of Virginia. Mr. Speaker, I have one question for those who want to strip D.C.'s elected Mayor and City Council of any ability to regulate firearms in our Nation's Capital: Are you insane?

It is unbelievable that the House Republican leadership would push this kind of a bill. We are spending billions of dollars trying to protect our Nation's Capital from terrorists because we have the highest concentration of potential terrorist targets in our Nation's Capital, and you want to arm every D.C. resident with every firearm imaginable, from handguns to Uzis to AK–47s, and enable them to walk around our streets to go into churches, theaters, schools and public buildings?

This is unbelievably irresponsible. I cannot believe that the Republican leadership would promote this kind of a bill, just to give the NRA the kind of vote that asserts its dominance over this House.

Last year, the District of Columbia confiscated 1,982 firearms from criminals. This year, so far 1,400 have been taken from criminals because it is illegal to carry a gun here. Virtually all of them would be able to carry around those firearms without any regulation if this bill was passed.

This is not the Wild West of the 19th Century. This is our Nation's Capital in the 21st Century. Please do the decent thing and defeat this radical affront to the citizens of our Nation's Capital.

## ADMINISTRATION UNHINGED FROM REALITY

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

Ms. DELAURO. Mr. Speaker, today we see an administration in denial, a denial of problems here at home and abroad.

Today's Washington Post says an increasing number of career professionals within our own national security agencies believe that the situation in Iraq is much worse than is being expressed in public by top administration officials. It says, ''The rebellion is deeper and more widespread than is being publicly acknowledged.''

These are not the words of ''pessimists and naysayers,'' as the President's spokesperson so glibly put it. These are not, as President Bush said last week, ''guesses.'' These are the findings of those fighting the Iraqi insurgency and studying at CIA, the State Department, and within the Army officer corps.

Yet the administration insists that, ''Freedom is on the march in Iraq.''

This comes on the heels of a New York Times piece that found 120,000 hours of terrorism-related recordings that have not even been translated by the FBI, this after this administration and the majority have repeatedly refused to appropriate the funds to hire the necessary translators.

We are seeing an administration unhinged from reality, with incompetence at the highest levels, incapable of prosecuting this war successfully. Their mistakes have put the lives of our valiant soldiers already serving in harm's way at even greater risk.

## AMERICA NOT BEING MADE SAFER

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

Mr. DEFAZIO. Mr. Speaker, the administration says time and time again, as if that would make it so, that Americans are safer today. After all, they are spending $10 billion to deploy a defective Star Wars system that has not been tested and could not hit missiles that will not be launched against us, and that makes us safer.

Yet our ports are wide open. Three percent of the containers coming into America will be inspected this year. That is the most likely route of a weapon of mass destruction to the United States, and we are only inspecting 3 percent of them, and 2 percent of the trucks coming across the Mexican border?

No one is going to shoot a missile at us, but they darn well might smuggle it in a truck or container and bring it in and detonate it in a city in the United States. And they are doing nothing about it.

They are doing nothing about plastic explosives being carried on to airplanes, even after the incidents in Russia. We have been warning them for 2 years that they are likely to take planes down. They are still doing nothing to detect plastic explosives at passenger checkpoints or keep people who clean the planes from secreting bombs on to the plane.

America is safer today? Maybe it is safer in an undisclosed location where DICK CHENEY is hiding out, but if is not safer for average Americans.

## PROVIDING FOR CONSIDERATION OF H.J. RES. 107, CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2005

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 802 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 802

*Resolved,* That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

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

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

Mr. Speaker, H. Res. 802 is a closed rule that provides for the consideration of H.J. Res. 107, a continuing resolution that will ensure ongoing appropriations for fiscal year 2005 until November 20, 2004, except for the Defense Department appropriations bill, which has already been enacted into law.

The rule provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution and provides for one motion to recommit.

Mr. Speaker, tomorrow is the last day of fiscal year 2004. At this point in time, there are a total of 12 regular appropriations bills that have not been enacted into law. Approving this CR will allow the Federal Government to continue its activities and operations for an additional 7 weeks.

To its credit, the House has passed 12 of the 13 regular appropriations bills. Unfortunately, the other body has passed only 5 regular appropriations bills and we need to pass a continuing resolution to allow the Federal Government to remain open while the House and Senate leadership, the House and Senate Appropriations Committees, and the respective bodies work through the process of resolving their differences on the remaining 12 regular appropriations bills.

The underlying resolution, H.J. Res. 107, is designed to allow the many different Federal departments and agencies covered by those 12 outstanding bills to continue operating under the terms and conditions of their fiscal year 2004 appropriations bills, while generally not allowing for the initiation of new programs, activities or projects.

Mr. Speaker, I urge all of my colleagues in the House on both sides to join me in supporting this rule and the underlying CR.

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

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

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

Mr. FROST. Mr. Speaker, as my Republican friend and former colleague on the Committee on Rules, Porter Goss of Florida, once said about a continuing resolution, ''Congress is failing to fulfill its obligation in a timely and responsible way, choosing to fall back on one CR after another instead of putting in the time to do our job.'' Or as he said on another occasion, ''A continuing resolution erodes the credibility of the Congress.''

Well, Mr. Speaker, I am not sure how much credibility this Republican Congress will have after we pass this continuing resolution and scurry off to our districts until November.

□ 1030

This Congress is unable to finish even its most basic duties, which is amazing, considering that the Republicans control both Chambers and the White House. Let us take a look at what we are leaving behind.

We have yet to pass a transportation bill to reduce congestion on our roads, reduce pollution in our air, or create new, good-paying jobs in our communities.

We have yet to pass legislation implementing the recommendations of the 9/11 Commission, to strengthen America's intelligence community, strengthen America's homeland security, and effectively fight terrorism around the globe.

We have yet to pass a higher education reauthorization bill to help students across America pursue a higher education.

And we have yet to pass the majority of our mandatory spending bills to fund the government for the next year. In fact, we have only passed one out of 13 appropriation bills through the entire Congress.

By refusing to stay in Washington and do our work our constituents sent us here to do, we are harming our economy, leaving our young students behind, and endangering the safety and security of this Nation.

Yesterday, Mr. Speaker, the House spent the entire day debating and passing 38 suspension bills, including passing a bill to rename a river basin in Colorado and a number of bills to name several post offices around the country; and it has been that way for months. We spend more time naming post offices than doing the people's business and doing the work they sent us here to do. Our constituents expect us to fund this Nation's government, they expect us to pass a higher education bill to give our students the opportunity to pursue a college degree, a transportation bill to keep our highways being developed, and they certainly expect us to implement the recommendations of the 9/11 Commission so that we can continue to wage the war on terror and keep our country safe.

But instead, Mr. Speaker, this Congress is taking the easy way out, leaving the hard work until after the election. I wonder, will this Congress be

able to finish its work even then. Truly, this has been a do-nothing Congress.

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

Mr. LINDER. 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.

## STAND UP FOR THE SANCTITY OF MARRIAGE

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

Mr. GINGREY. Mr. Speaker, I rise today to commend this House for having the courage to protect the sanctity of marriage.

In today's society, we find ourselves constantly fending off attacks aimed at the foundation of our Nation. Whether it is those that would take ''in God we trust'' off of our currency or ''one Nation under God'' out of our Pledge, we must stand up for the basic tenets on which this Nation was founded.

This week, Mr. Speaker, we continue our fight to defend one of the most basic institutions of our Nation: the traditional family.

It is true that the recognition of the family unit has traditionally been a State issue; but with the recent onslaught against the traditional family in our Nation, I believe it is now time for the Federal Government to act decisively.

As a cosponsor of H.J. Res. 106, I encourage my colleagues to stand up in defense of the traditional family and in defense of traditional marriage between one man and one woman.

## PROVIDING FOR CONSIDERATION OF H.R. 3193, DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 803 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 803

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3193) to restore second amendment rights in the District of Columbia. The bill shall be considered as read for amendment. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

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

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 803 is a closed rule providing for the consideration of H.R. 3193, the District of Columbia Personal Protection Act. The rule provides 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform.

The rule waives all points of order against consideration of the bill, and provides that the amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 3193 is a bipartisan measure sponsored by the gentleman from Indiana (Mr. SOUDER). The bill has 228 cosponsors from across the country, including 44 Democrats.

The bill simply permits law-abiding citizens of the District of Columbia to own firearms, a right currently denied them by act of the D.C. City Council. The Nation's capital has the toughest laws and regulations in the country prohibiting gun ownership by citizens. This bill would repeal the most onerous of those laws, thereby permitting individuals to protect themselves and their families in their own homes and otherwise enjoy privileges of gun ownership comparable to those enjoyed by most American citizens.

This bill would not affect any laws currently aimed at criminals and would place strict penalties on criminals who use guns to commit crimes. In addition, all penalties are doubled for illegal possession of a firearm in a ''gun-free zone'' within 1,000 feet of a school, day care center, college, or various youth facilities such as swimming pools and video arcades. Possession or use of a firearm while committing a crime of violence would remain punishable by up to 30 years in prison with a minimum 5 years served before eligibility for parole or probation.

Mr. Speaker, some have suggested that passage of H.R. 3193 may lead to an increase in violent crime, but I have to say that the facts suggest otherwise. Before the D.C. City Council imposed a handgun and home-defense ban in 1976, D.C.'s homicide rate had been declining. After the ban was instituted, however, D.C.'s homicide rate rose by more than 200 percent by 1991, while during the same period, the national homicide rate rose by just 12 percent. It is clear that this misguided and overly restrictive gun ban has not only failed to decrease violent crime in the District of Columbia, but it may have contributed to its increase. We have a chance today to do something about that.

So accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the underlying bill.

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the so-called District of Columbia Personal Protection Act and to this closed rule.

Mr. Speaker, today the Republican leadership is, once again, letting the American people down by considering the wrong bill at the wrong time under the wrong circumstances. Once again, we are considering legislation in the shadow of the November elections. With 5 weeks to go until Election Day, the Republican leadership has put the country's agenda on hold in order to force an unnecessary vote on a bad and stupid bill. Once again, the Republican leadership is catering to the special interests at the expense of the public good; and once again, the Republican leadership is squandering the House's very limited time with this foolish, misguided, election-year legislation.

Mr. Speaker, we are just one day away from the end of the fiscal year, and only one, and I repeat, one, appropriation bill has been sent to the White House. Not only are the remaining 12 appropriations bills left on the table, not only has the House failed to complete consideration of all of the appropriations bills, but the Republican leadership, which controls both Houses of Congress, cannot even agree upon a budget.

Mr. Speaker, the Republican leadership cannot get its act together on the highway bill, a bill that would create thousands of good-paying jobs. The Republican leadership cannot find the time to work on a bill to increase the minimum wage, even though wages are stagnant and over 4 million Americans have fallen out of the middle class and into poverty since George Bush became President. And the Republican leadership cannot even get its act together on the Department of Defense authorization or the FSC/ETI bill, each of which has languished in conference for months.

Mr. Speaker, as the House takes up this frivolous legislation today, the Republican leadership has yet to act on the recommendations of the 9/11 Commission report.

□ 1045

Although the other body is working on legislation to implement the 9/11 report and the Democratic leader of this

House has introduced legislation that addresses the report's recommendations, here we are today wasting precious time that could be used to debate the 9/11 report's recommendations. Will it take another September 11 anniversary before the Republican leadership will act? Will we see the Republican leaders' bill before the election? Will we have to wait until after November for the necessary reforms that will help make our country and our citizens safer against terror?

Mr. Speaker, if the American people want real leadership on real issues facing the Nation, they certainly should not look to this House of Representatives. Under this Republican leadership, this House has become a place where trivial issues are debated casually, and serious and important ones not at all.

In fact, today, we are debating H.R. 3193, a bill that would overturn Washington, D.C.'s laws and restrictions on the possession of firearms. Among its provisions, H.R. 3193 repeals the District's ban on semi-automatic assault weapons, its gun registration requirements and its ban on cop-killer ammunition.

That is right, Mr. Speaker, this bill puts cop-killer ammunition on the streets of our Nation's capital. Simply put, this legislation makes the Nation's capital a more dangerous place to be a police officer.

As D.C. Mayor Anthony Williams wrote to the congressional leadership, ''It is unthinkable that, while the Nation's capital is under alert, Congress should take action to expose more than half a million residents, almost 200,000 Federal workers and 20 million tourists to greater danger.''

It is unthinkable, Mr. Speaker, to put our officers at greater risk at a time when Capitol Police expect $20 million in additional unbudgeted expenditures to secure the Capitol Building for this year. The last thing they need to hear is that semi-automatic weapons can now be carried on the National Mall or cop-killer bullets are legal in the District of Columbia.

While the bill changes the law to allow District of Columbia residents to carry pistols, open or concealed, in their homes and places of business, it does not repeal another District of Columbia gun law. The law we will not repeal today is the provision outlawing people carrying or having readily access to firearms ''upon the United States grounds or within the Capitol Buildings.''

So we will vote to approve guns in another person's workplace in the District but not in our offices.

It is unthinkable that only 2 years after the Washington area was terrorized by snipers who killed ten people in the region and while the Nation's capital is still under terrorist alert, Congress would take action to expose more than half a million District residents, almost 200,000 Federal workers and 20 million tourists to greater danger.

This bill will make the District of Columbia a more dangerous place to live, to work and to study.

Although Members of this body may disagree on gun issues, surely, we can all agree that the citizens of the District of Columbia should not have to face fully-loaded assault weapons on their streets, in their neighborhoods and around their schools.

But, Mr. Speaker, this bill and this rule did not have to be so lousy. Last night, the Committee on Rules had the chance to make this a better bill and a better process. Instead, the leadership of the Committee on Rules decided to pass a rule that makes a mockery of the deliberative process Congress is supposed to follow when we consider bills.

First of all, the Republican leadership brought this bill to the floor without consideration by the committee of jurisdiction, the Committee on Government Reform. Then, last night, when members from both parties brought amendments to our committee, the Committee on Rules rejected them all. The rule does not make in order the gentlewoman from California's (Mrs. BONO) and the gentlewoman from New York's (Mrs. MCCARTHY) amendment addressing the fact that this bill repeals the ban on cop-killer bullets. This closed rule guarantees that this bill would emerge from this House with no real debate or consideration. This House floor has become a ''legislation-free zone.''

Mr. Speaker, this issue is about more than guns. This issue is about how the residents of Washington, D.C., are treated. Mr. Speaker, I do not believe that the Members of Congress from Indiana or Texas or Massachusetts have a monopoly on wisdom when it comes to local laws, and I would not presume to impose on the citizens and elected officials of the District of Columbia something that would never, never, never be allowed or accepted by my own city council or State legislature.

Mr. Speaker, not one constituent of any voting Member of Congress will benefit by today's action. As the Fort Wayne Journal Gazette stated in an editorial published just last week on September 21, 2004, ''This page believes Washington should be able to set its own gun-control laws but acknowledges that honest people can disagree regarding the city's second amendment rights. But there is little doubt that, right now, Souder's bill is simply a waste of Congress' time and does nothing to improve good government or help his constituents in Indiana.''

Mr. Speaker, let us follow what the Fort Wayne Journal Gazette wrote and address the real needs of our constituents.

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

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I thank the gentleman for the time.

I just wanted to speak on another issue, if I can just for a minute. An earlier speaker mentioned the FBI and funding, and I just wanted to make sure the record, since the CONGRESSIONAL RECORD is supposed to be a factual document, to let the Members know on both sides, since September 11, 2001, the Committee on Appropriations has supported the FBI's transformation, increasing the FBI's budget nearly 50 percent from $3.1 billion in fiscal year 2000 to $4.6 billion in fiscal year 2004.

These funding increases have allowed the FBI to increase the number of Joint Terrorism Task Forces to 100; create the Office of Intelligence; create the Terrorist Threat Integration Center, which the administration has done with FBI, CIA, Homeland Security, who meet together every day; the Foreign Terrorist Tracking Task Force; and the Terrorist Screening Center; hire thousands of new agents and analysts and support staff, including 620 additional linguists; create new training programs for agents and analysts; and upgrade the technology capabilities.

We have National Academy of Public Administration looking at the reformation of the FBI. The General Accounting Office, the Congressional Research Service, and the 9/11 Commission in its report referenced the work of the House Committee on Appropriations. It must have been a misunderstanding, but I just want the Members to know that, as we look in the record, this Congress, both sides, and this administration have increased the FBI budget by dramatic numbers.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I never could have thought I would see it, a House that is run by a conservative majority that is bent on imposing its will on the minority.

We have seen it many times, but, Mr. Speaker, it is so interesting to see that, this morning, we are taking up an issue, we are enforcing our will upon the people of this District of Columbia. Whereas, we would not even allow any other State or this Congress to dictate its will against the interests of our own local communities, we are prepared to do that to the District of Columbia.

It should not be any surprise, I suppose, to our delegate, the gentlewoman from the District of Columbia (Ms. NORTON). She has seen it too many times where she represents a populace here in Washington, D.C., that does not have the vote, does not have the vote here in the Halls of Congress. It does have a vote, however, on the local management of the city, not until today.

Today, the Congress says, not only will you not have a vote in the Halls of the Congress, not only as United States citizens will you be denied the right to vote, but you will also be denied in your own local government to decide what is in the best interests of your people.

We look at Washington, D.C., and see one of the most murderous capitals in this country, where every single day mothers worry about whether their children are going to get home at the end of the day, whether their children are going to be killed in drive-by shootings, whether their children are going to be safe.

To the mothers in the District of Columbia, terrorism means drive-by shootings, not Osama bin Laden. To the people of Washington, D.C., terrorism is defined by semi-automatic weapons and unrestricted access to all kinds of guns.

Mr. Speaker, this rule and this bill says terrorism is all right. Terrorism for the people of this city, who now will have to wonder how many guns are staring them down when they go outside every single day of the week, are going to have to wonder, when they see all of the complement of anti-terrorist measures in this town and know that those anti-terrorist measures are for everyone else but them, the inhabitants of Washington, D.C.

Mr. Speaker, this rule and this bill eliminate all of those laws that the people of this city have determined are in their best interest in defending their people, and it says, no, we are going to make you an example to the NRA that, whatever they want, they will get. When it comes to the repeal of the assault weapons ban, not only will this President not have fallen through on his commitment, but furthermore, they will have retreated on their commitment to defend the people of this Capital City and the Capitol Police of this Capital City. They ought to be ashamed of themselves.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Georgia (Mr. LINDER), the vice chairman of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank my friend from the Committee on Rules, the gentleman from Washington (Mr. HASTINGS), for the time.

Mr. Speaker, I rise in support of H. Res. 803, a closed rule that provides for the consideration of H.R. 3193, the District of Columbia Personal Protection Act. This is an appropriate rule that will allow the House to work its will on the underlying legislation, and I urge my colleagues in the House to join me in voting for its approval.

Mr. Speaker, I can certainly appreciate the position of those who oppose the underlying legislation. As a consistent proponent of home rule, I believe that the Federal Government should be limited in its influence over State and local laws.

The crux of this debate, however, is not whether the Congress has the authority to repeal the District's prohibition of owning firearms. The Founders were explicit in their desire for congressional oversight and responsibility in the affairs and laws of the District of Columbia.

The heart of the matter before us today is whether the District of Columbia should continue to prevent its citizens from exercising their full rights under the Constitution. We do not get to pick and choose our amendments, and the second amendment was written with just as much force and meaning as the first and the fifth and the tenth.

In 1975, the District's government enacted measures to prevent citizens from owning certain firearms in an ill-advised effort to reduce its violent crime rate. My colleagues have just heard about that from the previous speaker. As many of my colleagues can attest, however, the District, despite these laws, continues to be known across the country as the ''murder capital.''

It is beyond me to understand how we can stand here in the well of this House and say this is the most violent city in the Nation, this is the murder capital of the world, people are being gunned down, please do not change anything; leave it as it is. Does it ever strike anybody that, perhaps, perhaps, there would be less violence if the bad guys who do get guns, who have guns, would think for a moment that the people they are approaching might have guns, too?

This is not the kind of wild west life we want to live, but it is a fact of life that, in those areas where we have concealed-carry laws, there is less violent gun crime because the bad guys who have an easy time getting guns are concerned that maybe they are approaching someone who has one, too. There are some nations or some jurisdictions in this Nation that actually require people to keep guns in their houses, and it is an uncomfortable fact for those who would like to get rid of guns, but it is a fact.

□ 1100

They have less crime. They have far less crime.

So, Mr. Speaker, I urge my colleagues to support this rule and support the underlying law.

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

Mr. Speaker, I am a little bit baffled by the previous speaker to imply that somehow the passage of this bill would make the residents of D.C. safer. If this bill is enacted, the following weapons would be lawful to possess:

The AK–47, the Israeli Semiautomatic Uzi Carbine, the Bushmaster X–15, which was used by the D.C. area snipers to kill 10 people in 2002; the Barrett M82 A–1 50-caliber sniper weapon, which has the range of about 1 mile and is used by U.S. troops in Iraq and Afghanistan and worldwide to penetrate bunkers, to disable armored personnel carriers, and to take down enemy aircraft. This bill would allow fully-loaded assault weapons to be carried in public. This bill would allow armor-piercing ammunition, including cop-killing bullets. This bill would eliminate the District's registration program even for assault weapons. This bill would allow individuals to carry concealed hand guns in their places of business and property.

Mr. Speaker, I cannot believe that anybody can say with a straight face that this will make the residents of D.C. and this country safer.

Mr. Speaker, I yield 10 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

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

Mr. Speaker, when this law was first introduced, it was simply regarded as another absurd piece of legislation. There are lots of them during a session of Congress. When we moved toward a vote on this law, it left the realm of the absurd and entered the realm of the truly reckless, particularly reckless and callous at a time when 16 of our children are dead from guns in this city, far more than in any recent year; and at a time when, to their credit, the mayor of the city and the police chief of the city have reduced adult homicides by 25 percent.

I am on the floor this morning largely because this repeal will largely affect kids in the District of Columbia, and I cannot believe that that is the will of the great majority of the people of this House. There could not be a more wrong time or a more wrong place, a more wrong city, a more wrong region. This region still has not recovered from the sniper attack of 2002, which left 10 people in Maryland, Virginia and the District of Columbia dead, 5 more injured from a Bushmaster assault weapon that would now be legal to have in your homes, to have in your businesses, to have in your workplaces in the District of Columbia, in the Nation's Capital, which is now under an orange alert.

This bill did not move anyplace, Mr. Speaker. It was referred to the Committee on Government Reform, on which the gentleman from Indiana (Mr. SOUDER) and I both serve. He is the primary sponsor of this bill. There was no interest in the committee in this bill. The committee is deep into matters affecting Iraq and Homeland Security and Federal reorganization in the DOD, in the Department of Homeland Security, and even in the Subcommittee on Criminal Justice, Drug Policy and Human Resources, which I am pleased to serve on with the gentleman from Indiana (Mr. SOUDER).

Of course, this bill had to leap over every subcommittee and leap over the committee, because it never got a hearing, because there was no interest and there was no view that this is the kind of bill, particularly after 9/11, that any self-respecting Member of Congress would want to bring to the floor of the House. Yet here it has come, courtesy of the leadership of this House.

Moreover, this matter was considered a settled matter, if ever any matter is. The one group of local matters most prized as local in our country are criminal justice matters. And this matter has been settled by the people who

will be overwhelmingly affected if you vote for repeal today. It has been settled by the people of the District of Columbia, who alone have the right to make decisions as to how to safeguard their lives.

Thank you very much, you of the paternalistic variety who are going to tell us how to safeguard our lives. I am not going to tell you I do not expect you to tell my mayor, I do not expect you to tell my unanimous city council, I do not expect you to tell me, that is to say, if you still believe this is a Federal Government and you believe that we are as much citizens of the United States as you are, and we are.

When this bill came to the floor, with no opportunity to make any changes, of course, the only thing you can do is to go to the Committee on Rules. There we found a hostile attitude toward amendments, except amendments from one Member. Members came forward from both sides. This is a matter of compelling interest to the entire country. And the only Member to in fact get an amendment in order was the sponsor of the bill. He happens to be a Republican. No partisanship there, of course.

Actually, that fact, the one amendment coming from the gentleman from Indiana (Mr. SOUDER), the sponsor, is the front end of the partisanship of this bill. This bill is not about whether it will pass or fail. It comes a month before election, for reasons that the Members have not even tried to deny: Close to the election, let us hold up the Democrats, especially the Democrats from rural areas, from southern areas, from western areas. Let us dare them to vote for home rule, as they usually do. Let us take them down with NRA ads if they do. Everybody gets it. That is the only reason Democrats are on this bill. They saw Democrats taken out by NRA distortions of their positions on weapons just a few years ago.

The Souder amendment is really an amendment to wipe the red off the sponsor's face because he had sent a Dear Colleague, advising that a previous Dear Colleague saying that the bill would allow fully-loaded assault weapons to be carried in public was a matter of scare tactics. I can understand why the gentleman from Indiana made the mistake. It is not his law, it is not his business, he does not know what he is talking about, and he made the kind of mistake I would make if I tried to mess in the business of his jurisdiction. I am not familiar with what they do. He made a straight-out error. He said, oh, no, we were wrong; he was right.

Then, of course, he comes forward with an amendment, which is a mea culpa that admits that he was wrong. Actually, his amendment does not help very much, because it assumes an assault weapon, a Bushmaster, a loaded handgun which you could keep in your home, in your business, that somehow they are going to be contained in your homes, in your businesses, in your workplaces. Everybody knows that once you have a gun there, it stays there. That is, unless you have the experience of running the District of Columbia or living in the District of Columbia. And as our police chief says, there would be a moment, a moment in time before weapons in people's homes would find their ways to the streets to settle domestic violence matters, acquaintance quarrels, kids settling matters among themselves.

And, Mr. Speaker, we have even seen some of that when guns have gotten into kids' hands. We know what would happen with those guns because we live here and we know our people. They would make their way into Ward Six, where I live, which is close to the Capitol, and they would surely make their way to the streets in the poorest wards of the city, across the Anacostia River, where most of the killings of residents, and particularly of children, have taken place.

The gentleman from Indiana (Mr. SOUDER) does not know any better, and I can forgive him that. What I cannot forgive him is introducing and pressing this bill at a time when we have child killings at a record we have not seen in many years. Why in the world would anybody want to make laws for somebody else's jurisdiction?

So I said, well, if I could do only one amendment, what would I do? Because I knew that you would not want to put in a great many amendments to a bill that was being put forward for transparently political reasons. And I said, I know the one I would do, because I know what I have heard from my police chief. I would put in an amendment to say at least if you are going to have ammunition, let there be no cop killers' ammunition. And I came forward with an amendment that was aimed chiefly at doing whatever little we could do to protect our police officers and our children, the two categories of people most vulnerable because they are the disproportionate victims.

This amendment, however, like every Democratic amendment, was not made in order. I think it goes without saying that most Members would prefer not to have armor-piercing incendiary ammunition floating around their districts. The fact is that the kind of ammunition that my amendment would bar are not barred by Federal law. In fact, Congress, in fiscal year 2001, fiscal year 2002, and fiscal year 2003, in the DOD appropriation, actually added to the appropriation language that barred armor-piercing incendiary ammunition being transferred from DOD to private parties.

In the name of my children and police officers, I thought maybe they will throw me this sop. There are no sops to be thrown here. This bill not only is brought forward for political purposes, this bill is brought forward in callous disregard of these children. Their parents have been to the Hill, begging to have this vote rescinded. Our mayor, our new superintendent of schools, and our police chief were here yesterday to say this is exactly what we do not need.

I ask you to respect the people who know best, the people who will have to pay the price, the people who have had to go to the funerals. I ask you to defeat this bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Washington State, the distinguished member of the Committee on Rules, for yielding me this time, and I want to thank my colleague, the gentleman from Indiana (Mr. SOUDER), for introducing legislation to restore our constitutionally protected right to keep and bear arms in the District of Columbia. H.R. 3193, the District of Columbia Personal Protection Act, would eliminate penalties for the legal possession of a firearm, and it would permit the storage of legal firearms in an individual's home or place of business.

This debate is fundamental in its nature. Americans should have the right to defend themselves against a violent assault. They should have the right to protect their own lives. In 2002, the District of Columbia earned the rare distinction of being the murder capital of America for 14 out of 15 years, yet all handguns have been banned in the District since 1976. This simple fact shows that firearm bans do not work to decrease crime. D.C. laws should not make it a criminal offense to possess a firearm and self-defense in one's own home or business.

Mr. Speaker, the Washington Times reported on December 14, 1994, that Rebecca Griffin heard her daughter screaming one night, only to find her bound and gagged by two potential kidnappers. With one carrying a knife, she was quick to end the attack after retrieving her 32-caliber revolver from the basement. Although her daughter was left cut and bleeding, by using a firearm to protect her family in her own home, she saved her daughter from abduction and, yes, possibly death.

It is interesting to note that crime was on the decline in Washington, D.C., before the gun ban was imposed. Yet in only the first 15 years of the ban, from 1976 to 1991, the homicide rate increased by more than 200 percent while the rest of the United States had only a 12 percent increase.

When Congress chose to delegate home rule in the 1970s, it specified that legislation by the District must be consistent with the Constitution of the United States, and I hope that the gentleman from Rhode Island and the gentlewoman from the District of Columbia, who previously spoke about the rights of D.C. citizens, are listening. However, the District of Columbia consistently violates the second amendment right to keep and bear arms. It violates the right to self-defense.

Mr. Speaker, I ask my colleagues to pass the rule for the District of Columbia Personal Protection Act and to restore second amendment rights to the law-abiding citizens of our Nation's Capital.

Mr. MCGOVERN. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Massachusetts (Mr. MCGOVERN) has 8 minutes remaining and the gentleman from Washington (Mr. HASTINGS) has 20 minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

□ 1115

Mr. SULLIVAN. Mr. Speaker, I rise in strong support of H.R. 3193, the District of Columbia Personal Protection Act. This is a commonsense piece of legislation that will rightfully restore the second amendment rights of Americans living in the District of Columbia.

Mr. Speaker, I know there are Members of this House who support gun control. The issue today, however, is not gun control but it is self-defense. The right to be able to protect yourself and your family is always important, but the right to do so in your home is the most important of all.

In America, we consider the home a special place and give greater weight to people's liberties in the home. The faulty bureaucratic logic of allowing District of Columbia residents to defend themselves is refuted by common sense. D.C. has some of the strongest gun laws in the Nation, and yet the recent FBI figures show that the District has regained its former title as the murder capital of the Nation for 14 of the last 15 years. Common sense and the love of life and liberty tells us that D.C. residents should have the right to defend themselves in their own home.

According to the FBI, the street and highway robbery rate has decreased by 59 percent, which is a greater decrease than other types of robbery, so the theory that gun-related street crimes will increase because of this bill is not supported by the facts nor by common sense. That leaves with us only one question really: Are law-abiding residents of this city entitled to the same rights as other Americans? I think our answer can be nothing other than a resounding yes.

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

Mr. Speaker, I include for the RECORD a letter from Mayor Anthony Williams and a letter from the Chief of Police, Charles Ramsey, in strong opposition to this legislation.

We have heard from the gentleman from Oklahoma and we have heard from the gentleman from Georgia who think they know everything about what the people of the District of Columbia need and deserve; how about listening to the mayor of this city and to the police chief of this city who say this is a bad bill which will make the streets of this city more dangerous?

*Washington, DC, September 16, 2004.*

Hon. TOM DELAY,
*Majority Leader, House of Representatives, Cannon House Office Building, Washington, DC.*

DEAR REPRESENTATIVE DELAY: Princess Hansen. James Richardson. Chelsea Cromartie. Myesha Lowe. These are the names of four children who will never see adulthood. These are the names of four children whose parents are devastated by grief. These are the names of four children out of 14 who were killed by illegal guns in the District since January.

On behalf of the residents of the nation's capital, I am writing to express strong displeasure upon learning that federal legislation to repeal the city's gun control laws could shortly come to a vote in the House of Representatives. The District of Columbia Personal Protection Act of 2004 is not just a step back in our efforts to control crime—it is a couple of football fields back.

I take sharp exception to this wholly inappropriate intrusion into what is clearly a local matter. On behalf of the residents of the District of Columbia, I urgently ask you to take no further action on this legislation. It is unthinkable that while the nation's capital is under alert, Congress would take action to expose more than a half a million District residents, almost 200,000 federal workers and 20 million tourists to greater danger.

The District of Columbia has been governed by an elected Mayor and thirteen elected Council members since 1975. During the Council's first legislative session in 1976, the District passed legislation that restricted the possession, use and transfer of handguns and semiautomatic weapons. The courts have upheld the constitutionality of this law and no bill has been passed in the District to water down our gun-control laws since.

District leaders have enacted gun safety legislation based on our citizens' view that any increase in the number of guns in the District increases the likelihood that crimes will be committed with those guns. We have made significant progress in reducing crime, although we still have work to do. This year alone, District residents have witnessed a 24 percent reduction in homicides and a 13 percent decrease in overall crime. There is no way to argue that lifting our weapons bans will not jeopardize this progress. My administration has worked very hard to produce these results and I ask you to respect our efforts by leaving one of our most important anti-crime tools in place. My greatest frustration is that in spite of the significant reduction in homicides, 14 children, the largest number in five years, have been killed by guns this year. These killings, some by children, are reason enough to do no more harm by allowing more guns in our city.

Our residents know all too well the human costs exacted by guns and violence. Eighty percent of all homicides in the District last year were committed with guns, all of which were brought into the city illegally. Because of the porous nature of our borders, we can never rely on laws alone to keep guns out of our city, but these laws are indispensable local tools to combat crime. Our ability to reduce homicides would be severely compromised if—in addition to confiscating guns brought in from other jurisdictions—we were required to combat gun violence from weapons maintained, carried and bought within the District.

We are taking aggressive measures to further reduce homicides and violent crime in the city by increasing the number of sworn officers to 3,800, restructuring our Patrol Service Areas, strengthening our investigative capacity, and improving 911 response times.

For Princess Hansen. For James Richardson. For Chelsea Cromartie. For Myesha Lowe. I implore you to take no further action on the District of Columbia Personal Protection Act of 2004. The citizens of the District of Columbia want nothing more than other American citizens would demand and get—the right to make our own decisions about our public safety.

Sincerely yours,

ANTHONY A. WILLIAMS,
*Mayor.*

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*Washington, DC, February 25, 2004.*

Hon. ELEANOR HOLMES NORTON,
*House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CONGRESSMAN NORTON: I am writing to express my strong opposition to any efforts in Congress to eliminate or weaken current laws regulating handgun ownership and possession in the District of Columbia.

As a law enforcement officer with more than 35 years of experience, I know firsthand the devastation of handgun violence in our urban neighborhoods. One need look no farther than Ballou and Anacostia Senior High Schools in Southeast DC for recent examples of gun tragedies: two young student-athletes gunned down this school year, either inside or just outside their school building. Like these two killings, nearly 80 percent of the homicides in the District of Columbia are committed with a firearm, not to mention countless assaults, robberies and other crimes of violence.

The District is facing nothing short of a crisis when it comes to gun crime and gun violence. Every day, our residents—and our police officers—are confronted by far too many firearms, that are easily accessible to far too many people—including young people—who should not possess them. Last year alone, Metropolitan Police officers recovered nearly 2,000 firearms, and we are on track to increase that total this year. To somehow suggest that the District would be safer by introducing even more lethal firepower into our city is pure folly. To reduce crime and prevent more senseless tragedies like the recent killings at Anacostia and Ballou, we need fewer—not more—weapons on our streets. And we need to have strong laws that allow our police officers to identify and arrest criminals who carry guns in our city.

I appreciate your strong support of DC's gun laws, and I stand ready to assist in working to retain and, if necessary, strengthen those laws. You know, as I do, that tough and sensible gun laws help make our communities—and our police officers—safe. The District of Columbia cannot afford to go backwards when it comes to combating gun violence.

Sincerely,

CHARLES H. RAMSEY,
*Chief of Police.*

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I rise in opposition to the rule; and more importantly, I rise in opposition to the underlying bill. When I looked at this bill, I was compelled to ask the question of the supporters of this legislation: What were they thinking?

Number one, we need less guns in the District of Columbia, not more guns.

Mr. Speaker, I represent the suburban districts in Prince George's County and Montgomery County, Maryland, just outside of Washington, D.C. The gun violence in D.C. bleeds over, excuse the expression, into our communities

so I have a great concern that we not have more violence and more guns.

Let me talk for a moment about the question of rights and the rights of D.C. citizens. My colleagues on the other side who are sponsoring this legislation are the same folks who are saying we have to have democracy in Iraq, we need to let the Iraqis decide. They would have the Iraqis decide their fate, but they will not let the citizens of the District of Columbia decide their fate. That does not make sense.

The citizens of the District of Columbia have not asked for this bill. The mayor is opposed to it, the police chief is opposed to it, the elected Representative is opposed to it. That is the democratic position, that the citizens of the District of Columbia, under the concept of home rule, should be allowed to make this decision, not people from Indiana and Georgia.

It is appalling to think that this measure would repeal the District of Columbia's ban on the sale and possession of handguns and semiautomatic weapons and eliminates criminal penalties for possessing unregistered handguns.

Earlier a gentleman talked about the facts. Let us talk about the reality. The reality is that most if not all of these young people did not die as a result of burglaries in their home, they died on the streets. They died on the streets as a result of handgun violence, not as a result of handguns purchased in the District of Columbia, but from Virginia and Maryland and other places.

That is the problem we have here. There are already too many handguns, too many semiautomatic weapons, too much street crime, and the sponsor of this measure would allow for more.

It is very interesting, we are in a period in which there is a great deal of concern about terrorism. And of course here in the capital, we are greatly concerned for obvious reasons. Why would we want more handguns in the possession of individuals in the District of Columbia that might pose a terrorist threat, or semiautomatic weapons in the hands of the people of District of Columbia who might pose a terrorist threat? It just does not make any sense. What were they thinking?

Under this bill, if a crime is committed and the weapon is found because they eliminate the registration process, detectives could not determine whose gun it was. It just does not make any sense.

And then how could people in this body forget the fact that on July 24, 1998, a gunman came into this Capitol and fired a handgun, killing Jacob Chestnut, a United States Capitol Police Officer, and Special Agent John Gibson? How can we forget the effects of handgun use, not to mention the handgun that was used to shoot at President Ronald Reagan?

The issue is not well, there is crime in the District of Columbia; yes, that is true. There is crime in every city. The issue is, do we want more crime and more violence as weapons are more readily available under this bill? Again, it just does not make any sense. Let me tell Members about the reality of what actually happens. Thieves not only break into homes for cash and jewelry, they also break into homes for weapons, weapons that can be fenced and transferred and sold through other means, and those same weapons that exist in the homes are also the weapons that are used to commit crimes.

So while the gentleman presents one anecdote of somebody who protected their family with a handgun, there is a lot more information about people who were victimized on the streets by handguns and semiautomatic weapons.

My colleague from the District of Columbia made an impassioned plea on behalf of young people, all under the age of 17, who were the victims of gun violence. I join her in that plea. Let us have some common sense, let us defeat this rule and then defeat the underlying bill.

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

Mr. Speaker, let me begin by reading a ''Dear Colleague'' letter from the gentleman from California (Mr. WAXMAN), the ranking member, and the gentleman from Virginia (Chairman TOM DAVIS) entitled Please ''Oppose H.R. 3193.''

They write, ''We are writing to urge you to oppose H.R. 3193, a bill that would make Washington, D.C. less safe. H.R. 3193 falls within the jurisdiction of the Committee on Government Reform, but was not considered by the committee.''

They say this bill ''repeals the D.C. laws that restrict the possession of firearms in the District of Columbia. Among the laws repealed are the ban on semiautomatic assault weapons, the ban on armor-piercing ammunition, and the gun registration requirements. Although one can debate the merits of some of D.C.'s gun laws, no one should question the importance of keeping fully-loaded assault weapons off the streets of the Nation's Capital city.

''Another problem with H.R. 3193 is its impact on home rule for the District of Columbia. Congress would never act to repeal the gun laws for communities in Northern Virginia or Southern California. Whether we agree or disagree with the District's laws, we should accord the mayor and District city council that same respect.

''Please join us in voting no on H.R. 3193.'' This letter was signed by the gentleman from Virginia (Chairman DAVIS) and the gentleman from California (Mr. WAXMAN).

A number of speakers have said D.C.'s gun laws violate the second amendment. They do not violate the second amendment. In a recent NRA-inspired lawsuit, D.C. citizens challenged the constitutionality of the city's gun laws. In a decision styled Seegers v. Ashcroft, a D.C. Federal court judge found that the D.C. gun laws did not violate the plaintiff's second amendment rights. In fact, because the second amendment specifically applies to State militias, the court held that the amendment cannot apply to the District of Columbia, which is not a State.

Mr. Speaker, this body considered this issue in 1999 when the gentleman from Virginia (Mr. GOODE) offered this repeal as an amendment to the gun show bill. That amendment was defeated by a vote of 175–250. This House has already spoken. Members defeated that awful idea then, and I hope they will defeat it again today when this bill comes to the floor.

I hope Members of this House will stand up to the NRA and will do the right thing, will do the right thing by the citizens of this city. How anybody can make the case that making more military-style assault weapons available on the streets of D.C. somehow is going to decrease crime is beyond me. It makes no sense at all.

This is an arrogant bill, where people who have no idea what is going on in this city are imposing their will on the people of the District of Columbia.

Mr. Speaker, I include for the RECORD two editorials, one from the Journal Gazette of Fort Wayne, Indiana, entitled ''Where Are Souder's Priorities'' and the other from ''The Decatur Daily Democrat'' entitled ''Souder's Contempt.''

I wish the gentleman who introduced this bill would have paid attention to the editorials from his home newspapers. They are right. D.C. has a right to determine its fate on these gun laws. Congress has no business repealing what the local leaders and legislators in D.C. have decided. I hope all Member of Congress do the right thing, will stand up for our kids, will stand up for our police. All of the police officers, the police chief, the police associations, are all against this bill. Let us do the right thing and defeat this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
*Washington, DC, September 27, 2004.*

PLEASE OPPOSE H.R. 3193

DEAR COLLEAGUE: We are writing to urge you to oppose H.R. 3193, a bill that would make Washington, D.C., less safe. H.R. 3193 falls within the jurisdiction of the Government Reform Committee, but was not considered by the Committee.

H.R. 3193 repeals the D.C. laws that restrict the possession of firearms in the District of Columbia. Among the laws repealed are the ban on semiautomatic assault weapons, the ban on armor-piercing (''cop-killer'') ammunition, and the gun registration requirements. Although one can debate the merits of some of D.C.'s gun laws, no one should question the importance of keeping fully loaded assault weapons off the streets of the nation's capital city.

Another problem with H.R. 3193 is its impact on home rule for the District. Congress would never act to repeal the gun laws for communities in Northern Virginia or Southern California. Whether we agree or disagree with the District's laws, we should accord the Mayor and the D.C. City Council the same respect.

Please join us in voting ''No'' on H.R. 3193.

Sincerely,

TOM DAVIS,

*Chairman.*
HENRY A. WAXMAN,
*Ranking Minority Member.*

[From the Journal Gazette, Sept. 21, 2004]

EDITORIAL: WHERE ARE SOUDER'S PRIORITIES?

Northeast Indiana residents have good reason to question where Congressman Mark Souder's priorities lie.

Souder has been receiving national exposure, not for anything he's doing for his constituents but for his attempts to use the Federal government to overturn a local government decision.

Our congressman believes people in Washington D.C., should be able to carry assault rifles and handguns.

He believes that Washington police should not be able to jail anyone for having unregistered weapons.

He believes District of Columbia workers should face no criminal penalties for carrying a gun to work.

The District of Columbia has banned handguns, but Souder thinks the Federal government should step in and overturn this local decision because Souder knows what's better for residents of the District of Columbia than they do.

Congressional leaders have placed a priority on Souder's bill—cynically called the District of Columbia Personal Protection Act—mostly to force House Democrats to cast a vote on a gun control issue before Nov. 2.

This misplaced priority comes days before the fiscal year will begin with 12 of the 13 spending bills needed to keep the government running yet to be approved.

Many political observers believe Souder's legislation has little chance in the U.S. Senate, making the D.C. gun bill an exercise in political gamesmanship.

Souder must need the diversion, coming at the end of Congress' longest summer vacation since Harry Truman was in the White House.

In a statement that has become sadly characteristic of our congressman, Souder compared gun control to owning slaves, telling the Washington Post, ''The fact is, we didn't allow the District to have home rule on the selling of slaves, either.''

Souder's bill earned him attention in the Post and in the Sunday New York Times shortly after receiving some publicity in U.S. News & World Report for his action on another issue of vital importance to Hoosiers—lighthouses.

Souder railed against a North Carolina congressman for wanting the Homeland Security Department to audit the group that operates the North Carolina Currituck Beach Lighthouse.

During an unrelated hearing, Souder blasted the efforts as ''one of the biggest travesties of justice I have ever seen.''

Perhaps Souder is unaware of the 14 children who have been gunned down in Washington this year.

Perhaps he is unaware that the handgun ban helped D.C. police take nearly 2,000 guns away from criminal suspects last year and more than 1,300 so far this year.

Perhaps his beloved lighthouses and efforts to embarrass Democrats have become too important.

This page believes Washington should be able to set its own gun-control laws but acknowledges that honest people can disagree regarding the city's Second Amendment rights. But there is little doubt that right now, Souder's bill is simply a waste of Congress' time and does nothing to improve good government or help his constituents in Indiana.

[From the Decatur Daily Democrat, Sept. 20, 2004.]

SOUDER'S CONTEMPT

Rep. Mark Edward Souder is about as interested in the hopes, fears and aspirations of District of Columbia residents as a rock along the Maumee River in his northeast Indiana congressional district.

What does engage the Republican congressman's enthusiasm is the prospect of forcing House Democrats to vote on a gun control law in a hotly contested election year. That helps explain why Souder is pressing for a vote in his bill, which would remove the District's stringent ban on handguns, lift a restriction against semiautomatic weapons, end registration requirements for ammunition and other firearms, and cancel criminal penalties for possessing unregistered firearms and carrying a handgun in one's home or workplace.

Wasting no opportunity to thumb their noses at D.C. residents who strongly support the handgun bans—and to ingratiate themselves with gun rights groups—House Republican leaders have promised Souder a vote before the Nov. 2 election. A more contemptible display of cynicism would be hard to find.

Souder maintains that his bill is not an incursion on home rule but rather is based on the Second Amendment's guarantee of gun rights. He's wrong, of course. The District's authority to enact gun control laws has been successfully challenged in court. Likewise, if Congress adopts language that denies the city's elected leaders ''authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms''—as proposed by Souder—what is that but a restriction on the city's self-governing powers? Besides, the District is hardly unique: Seven states also have their own bans on assault weapons. But it's not the Constitution that is at issue. Souder and the House GOP leadership are out to put Democrats on the defensive, especially those in competitive congressional races where the gun lobby might hold sway.

It matters not a bit to Souder and his gun allies that the D.C. police department has its hands full trying to keep deadly weapons off the streets. Last year D.C. police recovered 1,982 firearms from criminal suspects. As of Sept. 8, D.C. cops had already recovered 1,385 guns this year. Justifiable concerns that repeal of the city's gun laws would worsen violence on D.C. streets have fallen on deaf ears in the U.S. Capitol. House Republicans, if they have their way, would just as soon turn the nation's capital into a free-fire zone—and for cheap political reasons.

It is small comfort to observe, as some have, that the Souder bill would have dim prospects in the Senate this year. This offensive and opportunistic bill should not be allowed to see the light of day in the House of Representatives. But to say that is to hope that respect for the rights of District residents would rank above lust for partisan advantage.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 8 minutes to the gentleman from Indiana (Mr. SOUDER), the sponsor of this measure.

Mr. SOUDER. Mr. Speaker, first I would like to thank the gentleman from Washington (Mr. HASTINGS) for bringing up a very good rule today. I rise in support of this rule, and would like to alert all of my colleagues, the vote for a rule is a vote for allowing debate on restoring the second amendment rights to the District of Columbia residents.

Members have heard much of the debate today that citizens are prevented from owning a handgun at all. My bill says even if citizens have a gun, let me first state this, even if you have a gun, you store a rifle or shotgun, you are prohibited from using them to defend your own life, family, and home. District law threatens honest people with imprisonment if they unlock, assemble, or load their guns even when under attack.

For this reason, I am bringing before the House a bill that this rule would make in order that would restore the second amendment rights of D.C. citizens. I think it is important to note that my bill would not repeal any provision of D.C. law that bans gun possession by criminals or that punishes violent crime.

The rule also makes two important changes to my bill which would clarify the original intent. There has been a misrepresentation in ''Dear Colleagues'' to this House that said we would allow concealed and open carrying of any firearm, loaded or unloaded, outside the owner's property. It did not. It said three times in the bill, property, home, business or other land, but this clarifies it. It also strengthens D.C. code by providing a more complete set of exemptions based on Maryland law to allow citizens to transport unloaded, cased firearms to and from lawful activities, such as hunting, target shooting, and firearm safety training.

I want to address a number of the things that have come up during debate. One is if someone has a gun in their home, could someone go in and rob? Of course they could. They can now. It is just the person defending their home cannot defend their home, but it is not loaded, it has to be encased and cannot be used. But if someone wants to steal the guns, they can do that now.

What happens if they go on the street with an illegal gun? Guess what; they are doing that now. That penalty stays in effect. If somebody steals the gun or goes off their property with the gun, it is already against the law. It will still be against the law, and all Members are arguing is the ineffectiveness of the law.

For years in the United States we have heard this rumor that if we ban guns, only the criminals would have guns. In D.C. that seems to have come true, because now what we are arguing is that people who follow the law are somehow going to turn into criminals. The people who are criminals are already making Washington, D.C. the murder capital of the United States 14 of the last 15 years. How can it get worse?

What we are doing is letting the people who are in the homes, as people have written in and stated, that when they told, even though the gun was illegal, when they said they had a gun inside, people left the attacking of their homes. This should increase property values in Washington, D.C. It

should make people safer, and I think it is the right thing to do.

Another subject that came up was the so-called AK–47s and Uzis. They are constantly mentioned, but they are not legal to import now. Even though the assault weapon ban has expired, those and other foreign-made guns were prohibited under the Federal Firearm Importation Act in 1989, and they will still remain prohibited.

□ 1130

We heard about so-called ''cop killer bullets.'' The fact is on the armor piercing ammunition bill, there was a bill passed in 1986 when the Democrats controlled this House. After several years of debate and discussion, Congress prohibited certain kinds of bullets that could be used in a handgun and which were capable of defeating the kinds of bullet-resistant vests that police officers wear for protection. Some wanted to ban all ammunition. That was defeated. It came up again.

In 1997, a study conducted by the Bureau of Alcohol, Tobacco and Firearms found that existing laws are working and no additional legislation regarding such laws is necessary. The study also found that no law enforcement officer had ever been killed or even injured because of these so-called bullets penetrating a bullet-resistant vest. It urged Congress to avoid any experimentation with police officer lives that could conceivably lead to numerous additional officer fatalities.

The problem here is all we are doing is making D.C. in conformance with the rest of the United States, which is a constitutional right to bear arms, and this rule would go forth and do that.

I include for printing in the CONGRESSIONAL RECORD the cosponsors of this bill.

COSPONSORS BY DATE OF H.R. 3193

| Office | State | First Contact | R or D |
|---|---|---|---|
| Charles Stenholm | TX | 5-Sep | D |
| Max Sandlin | TX | 5-Sep | D |
| Chris John | LA | 9-Sep | D |
| Colin Peterson | MN | 10-Sep | D |
| Jim Matheson | UT | 10-Sep | D |
| Brad Carson | OK | 10-Sep | D |
| Marion Berry | AR | 10-Sep | D |
| Lincoln Davis | TN | 10-Sep | D |
| Jim Turner | TX | 10-Sep | D |
| Bud Cramer | AL | 10-Sep | D |
| Tim Holden | PA | 10-Sep | D |
| Silvestre Reyes | TX | 11-Sep | D |
| Gene Green | TX | 11-Sep | D |
| Michael Michaud | ME | 16-Sep | D |
| Sanford Bishop | GA | 17-Sep | D |
| Jim Marshall | GA | 17-Sep | D |
| Solomon Ortiz | TX | 22-Sep | D |
| Rick Boucher | VA | 24-Sep | D |
| Tim Ryan | OH | 25-Sep | D |
| Mike McIntyre | NC | 30-Sep | D |
| John Tanner | TN | 30-Sep | D |
| Nick Rahall | WV | 1-Oct | D |
| Joe Baca | CA | 2-Oct | D |
| Gene Taylor | MS | 2-Oct | D |
| Chet Edwards | TX | 7-Oct | D |
| Ken Lucas | KY | 8-Oct | D |
| Jerry Costello | IL | 8-Oct | D |
| John Dingell | MI | 8-Oct | D |
| Bart Gordon | TN | 8-Oct | D |
| John Murtha | PA | 21-Oct | D |
| Ciro Rodriguez | TX | 23-Oct | D |
| Bart Stupak | MI | 19-Nov | D |
| Ike Skelton | MO | 11-Feb | D |
| Jim Cooper | TN | 23-Feb | D |
| Alan Mollohan | WV | 26-Apr | D |
| A.B. Chandler | KY | 5-May | D |
| Allen Boyd | FL | 4-Jun | D |
| Paul Kanjorski | PA | 17-Jun | D |
| Leonard Boswell | IA | 17-Jun | D |

COSPONSORS BY DATE OF H.R. 3193—Continued

| Office | State | First Contact | R or D |
|---|---|---|---|
| Dennis Cardoza | CA | 17-Jun | D |
| Ted Strickland | OH | 20-Jun | D |
| Mike Ross | AR | | D |
| Stephanie Herseth | | | D |
| Earl Pomeroy | | | D |
| Jim DeMint | SC | 3-Sep | R |
| Joe WIlson | SC | 3-Sep | R |
| Tim Johnson | IL | 3-Sep | R |
| Dan Burton | IN | 4-Sep | R |
| Ed Schrock | VA | 4-Sep | R |
| Jo Ann Davis | VA | 4-Sep | R |
| Jeb Hensarling | TX | 5-Sep | R |
| John Carter | TX | 5-Sep | R |
| Kevin Brady | TX | 5-Sep | R |
| Pete Sessions | TX | 5-Sep | R |
| David Vitter | LA | 9-Sep | R |
| Dennis Rehberg | MT | 9-Sep | R |
| Lamar Smith | TX | 9-Sep | R |
| Michael Burgess | TX | 9-Sep | R |
| Ralph Hall | TX | 9-Sep | R |
| Randy Neugebauer | TX | 9-Sep | R |
| Sam Johnson | TX | 9-Sep | R |
| Butch Otter | ID | 10-Sep | R |
| Rodney Alexander | LA | 10-Sep | R |
| Chris Cannon | UT | 10-Sep | R |
| Ron Paul | TX | 10-Sep | R |
| Terry Everett | AL | 10-Sep | R |
| Adam Putnam | FL | 11-Sep | R |
| Joe Barton | TX | 11-Sep | R |
| Todd Platts | PA | 11-Sep | R |
| Candice Miller | MI | 12-Sep | R |
| Virgil Goode | VA | 12-Sep | R |
| Barbara Cubin | WY | 16-Sep | R |
| Phil Gingrey | GA | 16-Sep | R |
| John Sullivan | OK | 17-Sep | R |
| Ron Lewis | KY | 17-Sep | R |
| Spencer Bachus | AL | 22-Sep | R |
| John Duncan | TN | 23-Sep | R |
| Marsha Blackburn | TN | 23-Sep | R |
| Bill Janklow | SD | 24-Sep | R |
| Bob Ney | OH | 24-Sep | R |
| Ernest Istook | OK | 24-Sep | R |
| John Mica | FL | 24-Sep | R |
| Nathan Deal | GA | 24-Sep | R |
| Bob Goodlatte | VA | 25-Sep | R |
| Pat Toomey | PA | 25-Sep | R |
| John Doolittle | CA | 26-Sep | R |
| Mac Collins | GA | 26-Sep | R |
| Mike Rogers (AL) | AL | 26-Sep | R |
| Roscoe Bartlett | MD | 26-Sep | R |
| Cass Ballenger | NC | 29-Sep | R |
| Duke Cunningham | CA | 29-Sep | R |
| Jeb Bradley | NH | 29-Sep | R |
| Marilyn Musgrave | CO | 29-Sep | R |
| Roger Wicker | MS | 29-Sep | R |
| Steve King | IA | 29-Sep | R |
| Thaddeus McCotter | MI | 29-Sep | R |
| Wally Herger | CA | 29-Sep | R |
| Chip Pickering | MS | 30-Sep | R |
| Chris Chocola | IN | 30-Sep | R |
| Eric Cantor | VA | 30-Sep | R |
| Ginny Brown-Waite | FL | 30-Sep | R |
| Gresham Barrett | SC | 30-Sep | R |
| Jeff Miller | FL | 30-Sep | R |
| Jim Gibbons | NV | 30-Sep | R |
| Robin Hayes | NC | 30-Sep | R |
| Sam Graves | MO | 30-Sep | R |
| Steve Pearce | NM | 30-Sep | R |
| Tom Feeney | FL | 30-Sep | R |
| Trent Franks | AZ | 30-Sep | R |
| Duncan Hunter | CA | 1-Oct | R |
| Jo Bonner | AL | 1-Oct | R |
| John Hostettler | IN | 1-Oct | R |
| Todd Akin | MO | 1-Oct | R |
| Henry Brown | SC | 2-Oct | R |
| John Boozman | AR | 2-Oct | R |
| John Culberson | TX | 3-Oct | R |
| Roy Blunt | MO | 3-Oct | R |
| John Kline | MN | 6-Oct | R |
| Johnny Isakson | GA | 6-Oct | R |
| Don Young | AK | 7-Oct | R |
| Mike Simpson | ID | 7-Oct | R |
| Rick Renzi | AZ | 7-Oct | R |
| Bill Shuster | PA | 8-Oct | R |
| Mike Pence | IN | 8-Oct | R |
| Todd Tiahrt | KS | 8-Oct | R |
| Donald Manzullo | IL | 9-Oct | R |
| Jack Kingston | GA | 9-Oct | R |
| Philip Crane | IL | 9-Oct | R |
| Charlie Norwood | GA | 10-Oct | R |
| Jim Ryun | KA | 10-Oct | R |
| Richard Baker | LA | 14-Oct | R |
| Rob Bishop | UT | 14-Oct | R |
| Joseph Pitts | PA | 15-Oct | R |
| Lee Terry | NE | 15-Oct | R |
| Mike Rogers (MI) | MI | 15-Oct | R |
| Zach Wamp | TN | 17-Oct | R |
| Jerry Weller | IL | 20-Oct | R |
| Jim McCrery | LA | 20-Oct | R |
| Robert Aderholt | AL | 20-Oct | R |
| Bob Beauprez | CO | 21-Oct | R |
| Henry Bonilla | TX | 21-Oct | R |
| Randy Forbes | VA | 21-Oct | R |
| Thomas Petri | WI | 21-Oct | R |
| Melissa Hart | PA | 23-Oct | R |
| Billy Tauzin | LA | 27-Oct | R |
| Steve Buyer | IN | 28-Oct | R |
| Deborah Pryce | OH | 29-Oct | R |
| Fred Upton | MI | 29-Oct | R |
| Thomas Reynolds | NY | 30-Oct | R |
| William Jenkins | TN | 30-Oct | R |
| Steve Chabot | OH | 31-Oct | R |

COSPONSORS BY DATE OF H.R. 3193—Continued

| Office | State | First Contact | R or D |
|---|---|---|---|
| Cliff Stearns | FL | 3-Nov | R |
| William Thornberry | TX | 3-Nov | R |
| Scott Garrett | NJ | 5-Nov | R |
| Ken Calvert | CA | 7-Nov | R |
| Phil English | PA | 12-Nov | R |
| Devin Nunes | CA | 18-Nov | R |
| Max Burns | GA | 19-Nov | R |
| Tom Tancredo | CO | 21-Nov | R |
| Jim Nussle | IA | 24-Nov | R |
| Tom Cole | OK | 1-Dec | R |
| Ric Keller | FL | 9-Jan | R |
| Scott McInnis | CO | 22-Jan | R |
| Walter Jones | NC | 26-Jan | R |
| Sue Myrick | NC | 28-Jan | R |
| Dana Rohrabacher | CA | 29-Jan | R |
| John Peterson | PA | 29-Jan | R |
| Mario Diaz-Balart | FL | 29-Jan | R |
| Paul Ryan | Wisc | 4-Feb | R |
| Joel Hefley | CO | 9-Feb | R |
| Frank Lucas | OK | 26-Feb | R |
| Nick Smith | MI | 26-Feb | R |
| Darrell Issa | CA | 9-Mar | R |
| Gary G. Miller | CA | 11-Mar | R |
| Jeff Flake | AZ | 12-Mar | R |
| Tom Latham | IA | 22-Mar | R |
| Kenny Hulshof | MO | 25-Mar | R |
| Nicholas Lampson | TX | 31-Mar | R |
| Gary Miller | CA | 1-Apr | R |
| Curt Weldon | PA | 5-Apr | R |
| George Radanovich | CA | 23-Apr | R |
| Sherwood Boehlert | NY | 23-Apr | R |
| Charles Taylor | NC | 26-Apr | R |
| Dave Weldon | FL | 26-Apr | R |
| Greg Walden | OR | 28-Apr | R |
| Jo Ann Emerson | MO | 28-Apr | R |
| Shelley M. Capito | WV | 4-May | R |
| Richard Pombo | CA | 5-May | R |
| Harold Rogers | KY | 12-May | R |
| Dave Camp | MI | 17-May | R |
| Katherine Harris | FL | 17-May | R |
| Gil Gutknecht | MN | 19-May | R |
| Jim Gerlach | PA | 19-May | R |
| Mark Kennedy | MN | 1-Jun | R |
| Steven LaTourette | OH | 2-Jun | R |
| Anne Northup | KY | 4-Jun | R |
| Richard Burr | NC | 4-Jun | R |
| Doc Hastings | WA | 9-Jun | R |
| Don Sherwood | PA | 9-Jun | R |
| George Nethercutt | WA | 9-Jun | R |
| Howard McKeon | CA | 9-Jun | R |
| John McHugh | NY | 9-Jun | R |
| John Shimkus | IL | 9-Jun | R |
| Jerry Moran | KS | 14-Jun | R |
| Ed Whitfield | KY | 15-Jun | R |
| Charles Bass | NH | 16-Jun | R |
| John Linder | GA | 16-Jun | R |
| Tom DeLay | TX | 16-Jun | R |
| Ander Crenshaw | FL | 17-Jun | R |
| Ed Royce | CA | 17-Jun | R |
| John Boehner | OH | 17-Jun | R |
| John Sweeney | NY | 17-Jun | R |
| Kay Granger | TX | 17-Jun | R |
| Patrick Tiberi | OH | 17-Jun | R |
| Paul Gillmor | OH | 18-Jun | R |
| Jerry Lewis | CA | 20-Jun | R |
| Joseph Knollenberg | MI | 20-Jun | R |
| Michael Bilirakis | FL | 20-Jun | R |
| Elton Gallegly | CA | 22-Jun | R |
| John Shadegg | AZ | 22-Jun | R |
| Lincoln Diaz-Balart | FL | 22-Jun | R |
| Ileana Ros-Lehtinen | FL | 6-Jul | R |
| Michael Turner | OH | 8-Jul | R |
| Howard Coble | NC | 15-Jul | R |
| Hoekstra | | 21-Jul | R |
| Oxley | | 21-Jul | R |
| Jim Kolbe | | | R |
| Judy Biggert | | | R |
| Portman | | | R |
| Regula | | | R |

There have been a number of statements made about jurisdiction, process and so on. I was put under a very tough standard and that was that a majority of this Congress had to back my bill before it would be allowed to come to the floor. That is a very tough standard. Then after we achieved that, we were told we had to have a majority of the Committee on Government Reform, which we have, a bipartisan majority of the Committee on Government Reform. The gentleman from Virginia (Mr. TOM DAVIS) has stated openly and consistently that he opposes this bill. At the same time he also made it clear to the Committee on Rules that he understood that a majority of the Committee on Government Reform, a bipartisan majority of the Committee on Government Reform, supported this

bill and that he would approve of the Committee on Rules going ahead, in effect. He would still oppose the bill, still does oppose the bill and always will oppose the bill as he has done because he has been very consistent on this issue.

But there was also a statement made as though we were, ''we'' being the Republican leadership as well as outside groups, trying to intimidate these poor western Members in the United States who were afraid of ads.

First, the gentlewoman from South Dakota (Ms. HERSETH), the gentleman from North Dakota (Mr. POMEROY), the gentleman from Texas (Mr. EDWARDS), people in tough races, actually believe in gun rights. That is why they are on the bill. It is demeaning to have their colleagues undermine them on the House floor and imply that the only reason they got in the bill was for political purposes. That is things like people from our side would say about people from their side. Their own side should not be saying that. Furthermore, the last I saw, the gentleman from Michigan (Mr. DINGELL), the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Missouri (Mr. SKELTON), the gentleman from Pennsylvania (Mr. KANJORSKI), the gentleman from Texas (Mr. ORTIZ), the gentleman from Texas (Mr. REYES) are not in tough races and they are not intimidated by outside groups.

This bill has 45 Democratic cosponsors in addition to the majority of the Republican Party. When we talk about bipartisan legislation, this is bipartisan legislation. The D.C. handgun ban has failed. It has failed miserably. This bill is demanded by the people of the United States. They wrote into their Members. Members from both parties got on this bill. This is a good rule, and I hope Members will support and pass this rule and pass the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is unfortunate that I am here today to fight a closed rule on what will be one of the more tragic pieces of legislation that we try to pass through the House of Representatives. We have very important interests that are being ignored by this closed rule.

Guns are disproportionately killing our children in our cities and this law has no basis to be here in front of us today. DC has its own rules regulating purchasing and owning a gun, and we do not need to create legislation to usurp their power and go against their interest.

We are drowned in rhetoric saying that a Member of Congress who does not think handguns should be floating freely on our streets is someone who is anti-gun and wants to take our hunting rifles away. That is not this bill before us. You can keep your hunting rifles, you can keep your loaded guns in your business, but you do need some semblance of order on the street, where a small, innocent mistake encounter can turn into a massive bloodbath once guns are used instead of words.

Right now, DC's local laws do not prevent law abiding citizens from owning a firearm. Since 1976, District residents have registered over 100,000 firearms (mostly rifles and shotguns) with the Metropolitan Police Department (MPD).

Study after study is showing that guns protect very few at home and result in thousands of Americans killed in family and acquaintance quarrels, domestic violence and suicides. Guns obtained legally end up as weapons in domestic or neighborhood quarrels. Is this what we want in our neighborhoods? What is wrong with the mentality that it takes guns to solve problems and make people feel safe?

As a member of the House Select Committee on Homeland Security, we need to be doing everything we can to keep the men and women who protect the nation's capital out of harm's way. The nation's capital is under an orange alert.

Placing more unregulated guns in the streets of DC undermines homeland security measures. Why must we compromise our own homeland security efforts by bringing more handguns to the streets? Where are our priorities?

I have been collaborating with my colleague and good friend from the District of Columbia, Congresswoman ELEANOR HOLMES NORTON. She can echo that DC's current firearm laws are working. 97% of all guns used in crimes in DC originate outside of DC and 59% of traceable guns were first purchased in Maryland and Virginia. In addition, 8% of traceable guns were bought in North Carolina, Florida, Georgia and South Carolina. It is a travesty that her concerns are being ignored, both by the House Rules committee and by the larger body.

As legislators, we must take our role in as decision makers very seriously. This includes knowing when we have overstepped our bounds. Please, listen to the people of DC to hear if they want guns on their streets.

Mr. HASTINGS of Washington. 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.

## REMOVAL OF MEMBER AND APPOINTMENT OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore (Mr. LATHAM). Pursuant to clause 11 of rule I, the Chair announces the Speaker's removal of the gentleman from New York (Mr. BOEHLERT) from the Permanent Select Committee on Intelligence and pursuant to clause 11 of rule X, clause 11 of rule I, and the order of the House of December 8, 2003, appointed the gentleman from Missouri (Mr. BLUNT) to fill the existing vacancy thereon.

## APPOINTMENT OF CONFEREES ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4520) to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

### MOTION TO INSTRUCT CONFEREES OFFERED BY MR. NEAL OF MASSACHUSETTS

Mr. NEAL of Massachusetts. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Neal of Massachusetts moves that the managers on the part of the House, on the disagreeing votes of the two Houses to the Senate amendment to H.R. 4520, be instructed as follows:

1. The House conferees shall be instructed to include in the conference report an effective rate reduction for income from production activities in the United States, and such an effective rate reduction—

A) shall be provided in the form of a deduction as in the Senate amendment, and shall not be provided in the form of a corporate rate reduction, as in the House bill,

B) shall be available to all businesses (including farmers, farm co-operatives, subchapter S corporations, and other unincorporated businesses) engaged in U.S. production activity as in the Senate amendment,

C) shall include the provisions of the Senate amendment that adjust the size of the effective rate reduction based on the respective portions of the taxpayer's business in the United States and overseas in order to provide the largest effective rate reduction for businesses that have not moved operations offshore, and

D) shall include the provisions of the Senate amendment (not included in the House bill) that ensure that the rate reduction will not be available for income attributable to cost savings resulting from purchasing imported parts or outsourcing labor overseas.

2. To the maximum extent possible within the scope of conference, the House conferees shall be instructed to not include any increase in tax benefits for the overseas operations of multinationals.

3. The House conferees shall be instructed to develop a conference report that will not increase the federal deficit in either the short or long term. In doing so, the House conferees also shall be instructed:

A. To include in the conference report the provisions of the Senate amendment that eliminate tax benefits for companies that reincorporate overseas, and the provisions of the Senate amendment that restrict corporate tax avoidance transactions, including codification of the economic substance doctrine and the provisions directly targeted at transactions utilized by the Enron corporation, and

B. Shall drop the provision of the House bill that provides for private collection of Federal tax liabilities.

4. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees, and the House conferees shall file a conference report consistent with the preceding provisions of this instruction at a time permitting passage before the adjournment before the election.

Mr. NEAL of Massachusetts (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Under rule XXII, the gentleman from Massachusetts (Mr. NEAL) and the gentleman from California (Mr. THOMAS) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. NEAL).

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

I am pleased that the House Republican leadership has finally seen fit to appoint conferees to resolve the foreign sales corporation or extraterritorial income issue that the World Trade Organization found to be an illegal export subsidy. I note that the appointment of conferees today comes more than 2 months after the Senate appointed their conferees. This delay by the House Republican leadership has only resulted in more trade sanctions on many of our industries.

Today I am offering a motion to instruct that I believe should be the framework for the conference report. First, the motion to instruct offers a requirement that House conferees include an effective rate reduction for U.S. businesses manufacturing or producing goods in the United States. This benefit for U.S. producers is the appropriate replacement for today's export benefit which was enjoyed by U.S. manufacturers and producers. The replacement benefit should also apply to U.S. manufacturers and producers. This motion requires that all businesses, including farmers, farm cooperatives, subchapter S corporations, and other unincorporated small businesses should enjoy the benefit of the new rate reduction. I have never understood the opposition of the House Republican leadership to permitting small businesses to be eligible for the new benefit. I have always agreed with the gentleman from Illinois (Mr. MANZULLO), chairman of the Committee on Small Business, in his insistence that small businesses be eligible.

This motion also requires that businesses that are purely domestic receive the largest benefit, as included in the Senate amendment. We should reward companies for keeping their operations in the United States. This motion also requires the inclusion of Senate provisions to ensure that companies do not receive benefits for income attributable to cost savings from purchasing cheap imported parts or outsourcing labor. Again, I do not understand why the Republican House bill encouraged outsourcing of parts and labor offshore.

Second, this motion requires that the conference report not further increase tax incentives for companies to move operations offshore. We have had ample opportunity in this House for the better part of 3 years to do something about an issue that I think causes great concern to the American taxpayer and to the American worker. Our current tax laws already provide incentives for companies to invest and move operations offshore. There is no reason to provide additional tax benefits that could result in further U.S. job losses.

The Bermuda issue has never been debated vigorously in this House, and we should take that up perhaps as a separate issue down the road; but we sure could include it with this motion to instruct. We should be focused on increasing incentives for U.S. jobs, not incentives to create jobs overseas.

Third, this motion requires that the conference report be revenue neutral. We already are experiencing deficits of historic size, and there is no reason to further increase the deficit in this legislation. I would remind the consuming audience today that what began as a $4.5 billion problem now looks as though it will have a $130 billion solution. In making this bill revenue neutral, the motion also requires the House conferees to take the following specific actions:

First, the House conferees shall include the Senate provisions preventing corporations to avoid U.S. tax by merely reincorporating in a tax haven overseas. I have yet to meet anybody who believes that Tyco is a Bermuda-based company. I have never understood why House Republican leaders insist on defending companies that move to tax havens to avoid paying their fair share of tax, particularly at a time when we are engaged in combat overseas. Patriotism should never take a back seat to profits.

Second, the House shall include the Senate provisions addressing corporate tax avoidance transactions, including provisions targeting tax avoidance transactions utilized by the Enron Corporation. At one time we were prepared to give them, as we repealed the corporate alternative minimum tax, a $250 million tax break. These transactions are purely paper transactions that have no purpose other than tax avoidance. The House has resisted action in this area for years, permitting corporations to continue to avoid their responsibilities. It is time to close and stop those transactions.

Third, the House conferees should be instructed to drop the House provision that authorizes private collection of Federal tax liabilities. We debated that issue years ago in the Committee on Ways and Means, and I thought that the evidence that was presented would have offered substantial support for the position as outlined in our motion to instruct.

Finally, this motion requires that the conference meet in open session and file its report before the House leaves for the elections. There is no reason that this issue should have taken so long to resolve. The bill that the gentleman from Illinois (Mr. CRANE) and many of us introduced last year provided that it was possible to have a prompt bipartisan solution to the World Trade Organization decision. Instead, it has been decided to use this issue to provide more tax benefits overseas.

Essentially, it has been recommended that a tax increase on U.S. producers fund a tax decrease for offshore operations of U.S. multinationals. It is that decision and the decision to use this bill for narrowly targeted tax benefits that have caused trade sanctions to be imposed on some of our industries. This motion to instruct essentially rejects those decisions and provides a reasonable framework for properly completing the conference on this bill. I also would suggest that this motion to instruct urges the House to instruct the conferees on behalf of U.S. workers.

It is pretty simple. We provide benefits to manufacturers, particularly small businesses. We do not provide more tax incentives to move jobs overseas. And our legislation is revenue neutral.

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

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

Just as we began taking up going to conference in this motion to instruct, a number of Americans were not watching C–SPAN. They were watching other television programs which showed a private enterprise effort to go into space. Burt Rutan from Mojave in my district has built a spaceship called SpaceShipOne. It was launched earlier today. It reached an altitude unofficially, yet to be confirmed, of more than 100 kilometers, or 62 miles. It has returned safely and landed. The first private effort to enter space has succeeded. This is part of a competition stimulating private enterprise in an area that formerly was totally government-controlled.

He will now have a clock ticking in which 2 weeks will expire and prior to the second week, he will have refurbished SpaceShipOne, sent it back into space, achieved a second time an altitude of more than 100 kilometers; and, if he is successful in doing that, he will win the X Prize. It happens to be a $10 million reward for the first privately financed space vehicle to achieve those parameters.

I cannot help but see how striking this initial part of the achievement is to the reward that in part led Charles Lindbergh to fly across the Atlantic in 1927.

□ 1145

That achievement sparked the initial age of commercial aviation. This is the beginning of commercial space aviation, and I find it somewhat ironic that, while people are pushing the barriers of man's involvement with minimal or no government involvement, that we are here on a motion to instruct that plows old ground, that does not yield any harvestable crop other than pure political rhetoric.

The motion to instruct indicates that the conference, which we are all anxious to begin, and I accept any criticism about how long this has taken to achieve but we are now ready to go, and yet there will be continued delays based on political rhetoric that has no merit whatsoever. How can I make a

sweeping statement like that? The gentleman indicated that the House bill contained international tax provisions which will send jobs overseas. A pretty inflammatory statement. But I think it might be worthwhile to examine those areas of the House-passed bill and the Senate-passed bill that are identical.

Interestingly enough, the single biggest area in which the House and the Senate bill are absolutely identical are the international tax provisions, the very provisions the gentleman from Massachusetts said drives jobs overseas. It might be useful to examine the way in which the Members of the Senate voted on this measure, which, if they supported it, would obviously mean they are also interested in driving jobs overseas.

This measure was presented in the Finance Committee, and a Member of the Finance Committee is the Senator from Massachusetts, Senator KERRY. Senator KERRY voted for the international corporate tax provisions. Following the logic of the gentleman from Massachusetts, his own Senator, the Democratic nominee for President, apparently supports sending jobs overseas, since those two provisions are identical in the House and the Senate bills.

Who else would support this outlandish position which we will hear repeated time after time after time on this motion to instruct? Let us see. On both the Graham amendment and the Hollings amendment, which were to remove these provisions which the gentleman from Massachusetts purports drives jobs overseas, willing to keep these measures in the bill on the Senate side was minority leader Senator DASCHLE, who voted in favor of keeping these provisions. Senator BAUCUS, who is the ranking Democrat on the Finance Committee, voted. I could obviously go down the list of Democratic Senators who apparently are interested in putting jobs overseas.

POINT OF ORDER

Mr. MCDERMOTT. Mr. Speaker, point of order.

The SPEAKER pro tempore (Mr. ADERHOLT). The gentleman will state his point of order.

Mr. MCDERMOTT. Mr. Speaker, is it appropriate to quote the votes of Senators in the other body in the midst of a speech?

The SPEAKER pro tempore. Under clause 1 of rule XVII, it is appropriate to quote Senate proceedings on matters under debate in the House of Representatives for the purpose of establishing legislative history on such matters.

Mr. MCDERMOTT. In the other body, Mr. Speaker?

The SPEAKER pro tempore. If it is under debate here in the House of Representatives.

Mr. MCDERMOTT. Mr. Speaker, so anything that has occurred in debate on an issue that is in the body here that has been debated in the Senate, we can bring in the Senate debate?

The SPEAKER pro tempore. Quotations from Senate procedures are permitted. Only quotations from the Senate proceedings for the purpose of making legislative history can be included.

Mr. MCDERMOTT. Mr. Speaker, so if a speech has been made by a Senator on an issue that we are discussing here, we can use it verbatim from the Senate?

The SPEAKER pro tempore. For the purpose of making legislative history, quotations can be included.

Mr. MCDERMOTT. I thank the Speaker for his answer.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for his inquiry.

Obviously, what I am quoting is the voting record which was established in the Senate on this measure. I can understand why my colleagues on the other side would not want to hear the list of Democratic Senators who supported the international tax provisions because it pretty well demolishes their argument, and what they want to do is continue this fantasy argument that the provisions in the House bill ship jobs overseas.

These provisions, as I said, were identical in both the House and the Senate versions. In fact, the vote on the Graham amendment was, yes, let us eliminate the tax provisions, 22; no, 77. On the Hollings amendment, it was yes, 23; no, 74. By 75 percent or better, the Senate said, let us keep these international provisions. A significant number of those were members of the gentleman's own party, and, as I said in committee, his own party's nominee for President voted in favor of those provisions, and those are the provisions they are arguing they are shipping jobs overseas.

I would hope that that part of the argument on the side of my colleagues on the other side of the aisle would now end because it is pretty obvious they do not ship jobs overseas because the Democratic Senators would protect jobs here at home, and hopefully, they would vote to enhance jobs here at home. As a matter of fact, the rejection of the Graham and the Hollings amendments did just exactly that, i.e., they support the international tax provisions that are identical in both the House and the Senate bill. They do not ship jobs overseas. Senator KERRY would not vote for that. Senator DASCHLE would not vote for that. They voted to keep jobs here at home and strengthen America's economy. We should not hear another argument on the other side of the aisle about shipping jobs overseas.

Just let me say, if we do, one, it does not make any sense if one takes a look at what occurred in the other body in rejecting the attempt to remove these provisions; but, two, it does create an opportunity to sow seeds of dissent about the fact that, when we try to strengthen the private sector, create more jobs, it just does not fit their rhetorical pattern. So I think it is fairly ironic that, at the very time they are misrepresenting assisting private sector in enhancing the economy, that a private entrepreneur with private dollars has achieved for the first time reaching the edge of space. I would rather look with Burt Rutan up toward the stars and enhance our ability to create jobs at home than to argue a position which even members of their own party rejected on the Senate side and, wisely, the House rejected as well. Let us see if this argument is not made again during this debate. It should not be. Let us see if it is.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to clarify that, while it is in order to include in debate quotations from Senate proceedings for the purpose of establishing legislative history on a matter currently under debate in the House, Members may not characterize Senate action, as by parsing votes of particular Senators.

Mr. NEAL of Massachusetts. Mr. Speaker, could the Speaker clarify that further? Was the gentleman from Washington (Mr. MCDERMOTT) correct in what he said?

The SPEAKER pro tempore. To the extent that remarks include Senators' quotations outside of Senate proceedings, they are not in order.

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the Chair for the ruling.

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

Mr. NEAL of Massachusetts. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, my understanding of that interpretation is that I am not permitted to characterize the vote, and I believe I did to a certain extent. And, therefore, what I would like to do is to simply emphasize that one of the votes was a rejection of 77 to 22 and the other one was a rejection of 74 to 23, and people can reach their own conclusion on those votes rather than my presenting a conclusion, which was, I thought they were overwhelmingly rejected. I am not allowed to say ''overwhelmingly rejected,'' but 77 and 74 can be concluded by anyone on their own.

To that extent, Mr. Speaker, I certainly want to correct the record in emphasizing that it was overwhelming rather simply make sure that the vote of 77 and 74 noes is on the record.

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

I thank the gentleman from California (Chairman THOMAS) for that clarification as well. I hardly think that it is inflammatory rhetoric, by the way, which sometimes we are not as good at as some people on the other side when it comes to addressing some of these issues, but I hardly think it is inflammatory rhetoric to stand in the well of this House and to ask the following question: How did a $4.5 billion

problem become a $130 billion solution? That is really the point of much of the debate that is going to follow.

Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. LEVIN), ranking member of the Trade Subcommittee of the Committee on Ways and Means, and I ask unanimous consent that he be allowed to control that time.

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

There was no objection.

Mr. LEVIN. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Speaker, it is rather amusing to hear the chairman of the Committee extolling the virtues of the other body. It is a very unusual occurrence here on the floor of the House in that we should always follow what the Senate does. That should not be, I think, our goal.

The gentleman from New York's (Mr. RANGEL's) motion is among the most important votes that this body will take this year. In fact, it may be the most important proposals that we have considered since the resolution that authorized the President to send people to war in Iraq.

The legislation that passed out of this House and will be taken up in the conference committee aims to raise taxes on domestic companies and lower taxes on firms that move oversees. Mr. Speaker, it is wrong to raise taxes on U.S. exporters and lower taxes on U.S. firms with overseas operations.

The gentleman from New York's (Mr. RANGEL's) motion will instruct our House negotiators to make certain that tax incentives that exist for corporations moving overseas are not increased. What is wrong with that? I mean what is wrong with that?

I am told, Mr. Speaker, that you instructed Republicans to vote against this proposal. You cannot be serious.

Our trade deficit reached an all-time high this year. Our country is selling fewer things to foreigners than we buy from them, which explains why the government data says we lost at least 1.5 million jobs due to foreign trade and outsourcing since Mr. Bush took office.

Why do the Republicans respond to this news by increasing tax incentives for U.S. firms to move overseas? I mean, I know that the President indicated that outsourcing is good, but does the Congress believe that? Does the House believe it? The Senate voted overwhelmingly. Well, that fixes it.

□ 1200

I guess we have got to go along with that. Get your rubber stamp, because if you vote against this motion, we are rubber-stamping the Bush outsourcing policy.

U.S. firms are continuing to set up overseas operations because our Tax Code and the Bush administration encourage it. Republicans would have us believe that high taxes, government regulation, and labor unions are making the United States a less attractive place to do business. That assertion is bogus.

First, the Congress's Joint Committee on Taxation says that the overall tax burden and the corporate tax burden in the United States are among the lowest in the developed world. Corporate U.S. income tax revenue as a percentage of GDP is smaller than nearly every other developed country on the planet, and it is the lowest level since the Second World War.

Now, although corporate profits surged last year, the corporations paid significantly less taxes. The United States is simply the tax haven of the developed world.

Second, the World Bank issued a report 3 weeks ago entitled ''Doing Business: Benchmark Business Regulation.'' It compares how regulations affect businesses in different countries. The report shows that the ability to obtain credit, acquire capital, register property, hire and fire workers and enforce contracts, in other words, to start and maintain a successful business, is easier in the United States than any other developed country, including India and China.

But, nonetheless, Mr. Speaker, the U.S. firms are relocating overseas to save money. Why? It is simple. The Tax Code encourages it. It provides tax incentives to U.S. firms who set up any kind of operation, from establishing a mailbox in Bermuda or building a factory in China overseas.

Take, for example, the article that appeared in Tax Notes on Monday. It shows that companies are using the Tax Code to justify shifting profits offshore. The U.S. pharmaceutical industry, who we gave a huge bonanza to in this body, has alone, since Bush has taken office, their offshore profits have surged 35 percent. I hope the old folks are listening to that. But their offshore activities and assets did not really change.

What does this mean? It means that at a time when our country faces the challenge of our generation, at a time when the costs of war are mounting, the Republicans are protecting a Tax Code that rewards corporations for moving profits and jobs offshore.

You are not only protecting the current Tax Code, Mr. Speaker, but unless the House votes to adopt the motion offered by the gentleman from New York (Mr. RANGEL), the Republican Congress will worsen the Tax Code by making offshoring and outsourcing more lucrative.

Get out your clippers, Mr. Speaker, because this body is considering fleecing American workers and American firms that do business the old-fashioned way, that produce here to export overseas.

If JOHN KERRY were President, we could save us from this Congress. He has the plan to remove the tax incentives that reward companies that move overseas. If he were President, he would veto this legislation that this body proposes. But we have got to wait for another 34 or 35 days. I cannot wait until the 2nd of November.

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

Mr. Speaker, perhaps the gentleman from Washington knows his nominee better than I do, but the fact that he voted ''yes'' in Finance Committee and he suggests that he would veto it if he became President would certainly continue the pattern of first he voted yes, then he voted no. So I have no evidence to quarrel with him, that once again Senator KERRY will again be on both sides of the issue. It is just that he will change venues. The behavior does not change. Where he continually flip-flops, of course, would.

The gentleman from Washington also said that unless we pass the motion of the gentleman from New York's (Mr. RANGEL) motion to instruct, we will do something.

Oh, come on. Everybody knows motions to instruct are not binding. It has no influence whatsoever on the conference, unless the conference wants to.

Now, the measures that they are arguing, ''Oh, by the way, did I tell you that, notwithstanding the fact the Senate supported overwhelmingly the international corporate provisions, and I assume that they believe that they will not ship jobs overseas or they would not have voted the way that they did, and they probably should not be mentioned again in this debate,'' but the very next speaker not only mentioned them, but made it the core arguments of his position, that if in fact there are 23 Senators, 10 of whom are Democrats, they are members of the Finance Committee, save for 2, which passed these provisions out of the Senate Finance Committee, 19 to 2. And I do not believe they have any intention of reversing their position, even if this ludicrous motion to instruct were to pass.

So, I just want you to forbear. We will go through, the time will be used up. We will vote down the motion to instruct, and we can then get on with the conference. And I can assure you, the senatorial members of the conference and a clear majority of the House members of the conference intend to support those provisions that will strengthen jobs here at home, and they will dismiss, for the obvious reasons, the argument that continues to be made by those individuals, even encompassing a denial of the Senate's minority leadership's decision-making ability indicating that we should not listen to them.

I happen to believe that you should take each issue on its merits and not dismiss them by stereotyping, and on this issue, I believe the Senate got it right, just as the House got it right.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ADERHOLT). The Chair would remind Members not to characterize positions of Senators.

Mr. THOMAS. Mr. Speaker, I would inquire of the Chair, characterizing a current Senator who is running for another office and what he would or would not do would fall under that same admonition?

The SPEAKER pro tempore. Senators who are nominated as candidates for President—

Mr. THOMAS. Who are still Senators, and how they would behave, does that fall under the same admonition?

The SPEAKER pro tempore. Nominated candidates for President are judged by the standards applicable to that office.

Mr. THOMAS. I will accept the nonresponsive answer.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. BRADY), a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, it is clear I think to the listeners today that we are nearing Election Day. This is one of those ''scare America'' type motions that is designed to appeal to voters in the hopes that perhaps they do not understand the issue and you can just scare them by yelling ''outsource, outsource, outsource.'' But I think American voters are smarter than that.

What we have done here in the House, our frustration is that we have one of the greatest and most productive work forces in the world. But our Tax Code works against our companies and our workers and really forces people to have to compete somewhere else in the world.

We are convinced that we can create jobs here in America. So the approach we have taken is pretty simple and direct: We lower the tax rate for companies and workers that manufacture in America, and we keep a higher tax rate for companies that manufacture overseas. Lower if you produce in America; higher if you do it overseas. That way we encourage American companies and workers to keep the jobs right here.

For farmers and our agriculture community, we lower the rate if they produce here in America; we have a higher rate to tax them if they go overseas. That way we keep agriculture-producing income here in America.

For small businesses, rather than take money away from them and bring it up here to Washington, we want them to keep dollars back at home so they can create jobs and buy that new computer and do the things to keep small businesses in business these days in a competitive workplace.

That is what the American jobs bill does, and that commonsense approach is what the Senate, including majority and minority Members, overwhelmingly supported. They united to lower taxes if you produce here in America and have higher taxes if you produce overseas, a commonsense approach to American jobs here.

Let me say this, too. Our problem with trade is not so much that we are buying from overseas, it is the fact we are not selling enough products overseas. What this does is make our products far more competitive.

What we do is we do not chase American companies overseas anymore, and we get a chance, a real direct chance, to take out the job killers in our Tax Code and create American jobs here.

That is what this bill does, and I think every American who really studies it, and I think American voters are smart, will see that we want to encourage jobs here with a lower tax rate and a higher tax rate for companies that try to move overseas. That is what this bill does.

A final point: If you really want to tackle outsourcing, one of our problems is that we have so many job killers in our business climate. For example, lawsuit abuse is a huge cost to American businesses. It is a bigger cost annually than the cost of Iraq.

Lawsuit frivolous abuse, because we are the lawsuit capital of the world, we outsource our jobs, we drive up health care beyond reach, we chase good doctors out of practice. If you really want to stop shipping jobs overseas, I would invite my Democratic colleagues to join me in ending frivolous lawsuits that drive our jobs overseas, and instead work with us to keep them here in the United States.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. CARDIN), my colleague on the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I thank the gentleman from Michigan (Mr. LEVIN) for yielding me this time.

Mr. Speaker, there is a real question as to whether the legislation that has moved through this body would encourage the outsourcing of U.S. jobs and exporting of jobs or correct a problem in the Tax Code that needs to be corrected.

This is a very serious issue. The Foreign Sales Corporation Act that was enacted was an effort to level the playing field for U.S. producers versus our trading partners, particularly in Europe. For, you see, we have a different corporate tax structure than the Europeans have and the Foreign Sales Corporation Act was an effort to level the playing field.

The problem is that the World Trade Organization that we belong to declared that to be unlawful and opposed imposed retaliatory tariffs against U.S. exports. That tariff is now 11 percent. It will grow to 14 percent by the end of the year and 17 percent by next March.

Mr. Speaker, it is unconscionable that we have not corrected this situation prior to this time. We had a bipartisan proposal that would have fixed the problem. As my friend from Massachusetts pointed out, it was a relatively simple matter to fix the problem and to level the playing field for U.S. producers so that we can compete fairly internationally. But, instead, this legislation has become a Christmas tree for every conceivable tax provision, and it has been delayed and delayed and delayed, and our producers that manufacture products right here in America have paid a heavy price because of that delay.

The motion to instruct deals with the underlying issue. First, it asks for us to immediately resolve this issue, rather than further delays. Read the motion, paragraph 4.

It also says that the relief should be targeted to U.S. producers. That is the problem. The Foreign Sales Corporation Act was for U.S. producers who produce their products here in America. It is not for those who produce their products overseas. It should be targeted, because that is what the problem is.

That is what we are trying to do, is level the playing field. We are trying to respond to the World Trade Organization. It is right for us to target this relief to those who produce their products right here in America. That is the problem we are trying to deal with, and that is spelled out in the motion.

Then lastly, Mr. Speaker, we are saying that we should not be adding to the deficit of this country. We had a bipartisan solution that did not increase the national debt, but the legislation that passed this body certainly did that.

□ 1215

Again, it was another opportunity to show that we can be fiscally irresponsible.

We should pay for our tax cuts, and we can so that we do not add to the deficit; and this motion urges us to do that.

Mr. Speaker, I urge my colleagues to support the motion.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Florida (Mr. SHAW), a senior member of the Committee on Ways and Means.

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

Mr. Speaker, first of all, I think people listening to this debate are somewhat totally confused. In reading the motion, I can understand why there is confusion on both sides of the aisle.

To begin with, the Democrat motion to instruct the conferees to strike provisions that move jobs overseas, this instruction is absolutely meaningless, because H.R. 4520 does not include any provision that would move jobs overseas. As a matter of fact, quite to the contrary. We lower rates for people or companies that manufacture here in the United States.

Let me just take one provision of the motion to instruct. It says: ''shall include the provision of the Senate amendment not included in the House bill to ensure that the rate reduction

will not be available to income attributed to cost savings resulting from purchasing imported parts for outsourcing labor overseas.''

Now, how in the world are companies going to be able to operate in trying to segregate exactly what that means? Does that mean for the purchase of the agreement, the purchase of the parts? What if those parts are not even available here in the United States, and it is a question of just shopping the world market to find these parts? And then, is it going to include the effect of installation of those parts in the final product? It is totally unreasonable.

We need to fight in this Congress for simplified rules, simplified rules that are fair and understandable. And for us to adopt accounting procedures that are going to make compliance almost impossible does not bring credit upon this body.

What we need to do is to work forward and look in the mirror when we start saying, why are jobs moving overseas? Perhaps we are the problem. Perhaps the United States Congress and the Tax Code is the problem. We need to simplify the code. We need to move forward. We need to have a code that is friendly to those who would provide jobs in this country.

This motion to instruct does not make a bit of sense, and I would urge all of the Members to vote against it.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 2½ minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong support of this motion. It provides all American business enterprises, large and small, with an across-the-board rate reduction from income derived from work done here in the United States. To pay for it, it would curtail tax incentives that would encourage companies to move operations offshore.

With 2.5 million manufacturing jobs lost in the last 3 years, including nearly 40,000 in my State of Connecticut alone, many outsourced to other countries like China and Singapore, we all understand that steps must be taken to revive what is the very backbone of America's economy.

Let me just talk about what the business model of the Bush administration and the Republican leadership is, because government, in fact, is not in the business of creating jobs; but government is about creating an environment in which jobs can be created.

The business model is as follows: assisting companies in sending the jobs offshore, technology offshore and, in many instances, allowing companies not to pay their fair share of their taxes to the United States Government, and then these companies can come around and get Federal contracts. That is the business model for this administration; and, quite frankly, it does not create jobs here in the United States.

But by clinging to the idea that we should be rewarding companies who send jobs overseas, this majority has delayed action on this issue for more than a year. As a result, many manufacturers are now paying 11 percent tariffs on 1,600 American-made products, tariffs that could be as high as 14 percent by the end of the year.

What manufacturers need from this body is not more incentives to send jobs abroad; they need bold vision, recognizing that our Federal Tax Code could work for them, not against them, and by favoring those companies who keep their jobs here. That is exactly what my colleague's motion would do. American companies should not have to resort to transferring jobs to countries where workers make less and have fewer benefits to stay competitive.

Americans understand outsourcing. It is eroding our workforce; it has threatened every middle-class family in this country. It ought to end with helping our manufacturers here at home become more productive, more innovative; and if we want to boost sales, investment in modernization and employment, the House should pass the Rangel motion.

As I said, the American public understands outsourcing. I believe they are going to outsource some folks on November 2, people who do not understand what it means to have their jobs gone, to leave, when we could be providing this country's manufacturers with the opportunity to be able to stay here, invest in our technology, invest in our workers, and promote economic development in the United States.

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

Mr. Speaker, I am impressed with the gentlewoman's argument; and, in fact, her argument will be sustained if Members vote ''no'' on the motion to instruct and we can get on to conference.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Illinois (Mr. CRANE), the ranking Republican on the Committee on Ways and Means and the chairman of the Subcommittee on Trade.

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

I would like to stress the fact that H.R. 4520 does not include any provisions that would move jobs overseas. It does contain provisions that would foster economic growth and create jobs here in the United States.

The bill reduces the corporate tax rate to 32 percent only for domestic producers, farmers, small corporations, and manufacturers' activities within the United States. Manufacturing that occurs overseas or offshore would not get the lower rate.

The bill extends enhanced section 179 expensing for small businesses and provides accelerated depreciation for leasehold improvements and offers other tax benefits for businesses. Companies with a lower tax burden have more resources to expand their business and to create jobs in the United States.

U.S. exporters are getting clobbered by penalty sanctions. Lower exports mean a smaller economy and less employment. H.R. 4520 will end the sanctions imposed on the exporters, allowing them to expand and hire more workers.

Mr. Speaker, I urge my colleagues to reject the motion to instruct.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

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

Mr. Speaker, what we are talking about in this motion to instruct is what we should do: send to President Bush a bill to try to help American companies create jobs. Secondly, we want to help American companies create jobs, some of us at least do, in America, not overseas.

What we are seeing today is a wholesale shipping-out of American jobs so that today, when you buy a product, if you look at your home and take a look underneath that dish or if you take a look at that chair, if you take a look at the curtains and find out what that label says about where it was made, chances are it will not say ''made in America.''

It used to be that toys were manufactured here. It used to be that your furniture was manufactured here. It used to be that just about everything in your home was made in America. Today, virtually nothing that you have in your home is made in America. Not only is it the case that what was manufactured is no longer made in America, but today, we are talking about all sorts of things from data entry, word processing, transcription, phoning services, product design, architecture, movie production. X-rays are being analyzed overseas for Americans who go to see a doctor to find out whether or not there is a particular condition or illness they are suffering from. X-rays are being exported for analysis today. That is where we are.

Is it bad? It sure is. Every hour America loses 127 manufacturing jobs overseas. That means that there are 3,200 jobs that will be lost today as we speak. At the end of the year, 1.2 million American jobs will have left.

My colleague, the gentleman from Texas (Mr. BRADY), said this is an effort to scare America. My God, if those figures and those facts do not scare America, then we are in trouble, because we have to wake up, wake up to the fact that we are losing jobs to others overseas, and we are giving incentives as a government for us to see American companies send those jobs overseas.

Now, every company has a right, and we should try to help every company make a profit; otherwise, they will not be around. But my God, if we have an opportunity to use the government to help incent companies to keep those

jobs in America or create new jobs here in America for American workers, then let us do it.

So why are we here? The bill that stands before us would actually give $60 billion worth of incentives to companies who ship those jobs from America to overseas.

Let us change that. This motion to instruct simply says, you will get a tax break, you will get that incentive from the government, from the people, the 280 million Americans who pay taxes, if you create that job not in some other country, but here. That is pretty simple. And by the way, this also says, this motion to instruct also says, let us do this in a way that does not increase the size of the Federal deficit. We have a $440 billion deficit, the largest this country has ever known; and this is going to spend money to give incentives to companies, this bill will give money to companies through incentives to send jobs overseas. That is crazy at a time when we do not have money to begin with, and we are losing jobs by the hour.

If we are going to continue hemorrhaging jobs in America then, by God, we should be scared about what is going on. We should not hide the facts. We should not try to deceive Americans. We should do everything in our power to help the private sector create the jobs that we need.

The Bureau of Labor Statistics, the Bush administration Bureau of Labor Statistics recently revised its prediction on the growth of the number of high-tech jobs, white-collar jobs here in America that we would have, somewhere between 2002 to about 2012, over that 10-year period. They have revised that figure. Not up; they are not saying they are going to create more jobs; they are saying 70 percent fewer jobs. This is not some left-wing think tank saying we are going to lose jobs; this is the Bush administration's Bureau of Labor Statistics saying, folks, we made a mistake. When we told you a few years ago that we thought we would be expanding the number of high-tech, white-collar, good-paying, for the most part, $70,000-and-above-paying jobs, we were wrong. Today, guess what? We have to revise that figure down by about 70 percent.

Other analyses recently have told us that America is in jeopardy of losing a total of about 14 billion jobs into the future if we do not stop the hemorrhaging now. Between 300,000 and 500,000 jobs were lost in the U.S. since 2001, having gone overseas. That figure, by the way, did not come from another left-wing think tank; that came from none other than Goldman Sachs. You can go to Wall Street in New York and talk to them there, because those are the folks that told us that between 300,000 and 500,000 jobs have been lost, simply since 2001 overseas.

It is a crisis. Let us deal with it. It is not a scare tactic; it is real. Let us pass this motion to instruct.

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

Mr. Speaker, I would tell my friend, the gentleman from California, that I am a little concerned, because he has admitted that his own private purchasing choices are that he buys foreign products, but he is here on the floor trying to change the law of the U.S. to not allow that to happen. It seems to me that if you are going to be here expounding a position of not sending jobs overseas, that your purchase pattern should reinforce it.

A choice that people make in terms of their private purchasing is a choice that they control, and he did indicate that in his home there are a number of imported products. People have a choice. My hope would be that our private behavior corresponds to our public positions, because not only does the American Tax Code put us in the current position, which we are trying to correct with this legislation, but our own private behavior as well.

Mr. BECERRA. Mr. Speaker, will the gentleman yield on that point?

Mr. THOMAS. Not on my time. If the gentleman wishes to seek more time, I would certainly respond to him.

Mr. BECERRA. Mr. Speaker, I just want to mention that I have no choice, Americans do not have a choice. We cannot buy American products for our home.

Mr. THOMAS. Regular order. You always have a choice.

The SPEAKER pro tempore (Mr. ADERHOLT). The gentleman from California controls the time.

Mr. BECERRA. Show me the store that sells American products, and I will buy them. Show me the store that sells American products for my home, and I will buy them.

The SPEAKER pro tempore. The gentleman from California controls the time.

Mr. THOMAS. Mr. Speaker, perhaps it requires a little bit of endeavor and search, but that is what life is about.

□ 1230

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), an honored member of the committee.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman from California (Mr. THOMAS) for the time.

I have got to approach this issue from the standpoint of somebody who was in business for 35 years. This is a bill whose time has come. International commerce is always a balancing act, a balancing act between expanding markets overseas and protecting our job base. We did not ask for this fight. Europe did, and a man called Pascal Lamy forced it.

The concept in our tax situation, whether it was DSC or FSC or whatever, my colleagues want to call it, ETI, was to neutralize the differences in the tax system, the regional value-added tax versus our income tax, and it was accepted. We did a good job, and we flourished under this.

Then there were grumbles, and then, all of a sudden, Europe came back and challenged our position. We should have challenged theirs, but we did not, but then we tried to make an accommodation with the World Trade Organization, not once, not twice, but three times. It did not work.

So this is the only way it seems to me that we can accommodate the European community. It is a good bill. It is not perfect. It does not shift jobs abroad. It allows American companies to produce abroad as it allows people abroad to produce here in this country, but basically, it firms up our economy, and that means it firms up our job base.

I think it is something we ought to encourage, we ought to support, and we ought to defeat the motion to instruct.

Mr. LEVIN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time, and I want to apologize to the chairman for trying to have him yield me some time.

I just want to make the case I am willing to stay on this floor if the gentleman can name me an American product from my home that I can purchase, I will look to buy it, but I have looked. Whether it is an electronic product, whether it is dishes, whether it is curtains, tell me, and I will look to buy it.

There is no reason why we cannot try to give incentives to American companies to be able to produce here at home. If it is a little bit more expensive, I guarantee my colleagues the American consumer would say, if I have to pay a little bit more for that product, but it is made by American hands, I will do so.

The difficulty is that we have no right using taxpayer dollars to help companies ship jobs abroad. That is my point. When we have an administration that has actually had a net job loss of the last 3 or 4 years of close to a million jobs; and by the way, if we did not include the government-sector jobs that have been created under a Republican administration, that would actually rise to over 1.5 million jobs that have been lost. Almost 3 million of those jobs that have been lost have been in the manufacturing sector. So if it were not for government jobs created, we would have a massive job loss. We do not even create today the number of jobs we need just to keep pace with the new people who are entering into the system.

So it becomes very difficult when we are trying to do something to see that we are spending $60 billion which will, for the most part, help companies who may be American companies, who may have some of their operations here, but are still sending jobs abroad. Again, they have got to remain competitive. That is not a battle we want to fight. What we want to fight, though, is to give incentives to companies who are willing to commit to Americans here.

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

I suggest the gentleman take a trip to North Carolina, take a look at the furniture they have there, made in America, American products, American labor. Looking for curtains? There is still a cotton industry left. We produce flat goods. Carpets, you want to buy a carpet? They make them in Georgia. You want to buy cars? Take a look at American cars. You want to buy a radio or a CD player? An area where pretty obviously people say we do not have a choice, Bose makes an excellent quality American-made radio/CD. China? Glassware? I can go on and on.

There are products made in America. If you take the time to do it, you can help in your private life instead of arguing you are compelled to buy foreign products, and you come to the floor and demand that we change the laws to stop you from your private behavior.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I rise in opposition to the motion to instruct, and I urge my colleagues to vote against it.

The jobs bill before us is urgently needed. We need it to remove the international sanctions put upon our United States products by the European Union that are hurting sales of U.S. goods overseas and are jeopardizing jobs here in the United States.

We need the jobs bill to help promote job creation here in the United States by reducing taxes on United States manufacturers.

We need the jobs bill to update provisions in the tax code that are decades old and penalize American companies and keep them from competing with foreign companies.

We need the jobs bill to move forward in the spirit of the bipartisan progress that has already occurred and has been made on these issues.

The provisions that some are contesting here on the floor right now won bipartisan support in the other body and also here on the House floor. This bill is not about moving jobs overseas. It is about creating incentives to keep jobs right here in the United States.

We need to move the jobs bill to conference, and we should do it without delay. For these reasons, I urge my colleagues to reject the motion to instruct, to support going to conference so that we can bring back a conference report that everybody can support.

Mr. LEVIN. Mr. Speaker, I think we have the right to close, and the gentleman from New York (Mr. RANGEL) is not here, and I am not sure he will be here. We would have divided the balance of the time. He is not here because of the memorial service for our distinguished, and if I might say, beloved former colleague Frank Horton. So, therefore, under those circumstances, I reserve the balance of the time and I will close.

Mr. THOMAS. Mr. Speaker, I thank the gentleman, and all of us who served with the gentleman from New York, Frank Horton, certainly feel saddened by his passing.

I will tell the gentleman from Michigan, I have two additional speakers, and he has the right to close. We will conclude, and the gentleman from Michigan can then close.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the subcommittee chair of the Subcommittee on Health of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for the time.

Let us look at this issue of outsourcing. Last year, foreign investment in America doubled. That means that other countries outsourced jobs to America at twice the rate they had the preceding year. We need them to keep doing that!

Next, in the 1980s, I worked hard with some of my colleagues on the other side of the aisle to force Japanese companies producing cars in America to buy American parts; not just hire American people, buy American parts. We forced them to do it because we did not want ''screwdriver'' plants.

Well, when we produce airplanes in other countries for those countries, when GE gets a contract to produce locomotives in Russia and rehabilitate all the Russian locomotives, do my colleagues not think Russia wants some of those jobs? Do my colleagues not think Russia wants some of those parts bought in Russia? Of course, they do, but expensive, high-value parts come from New York State and have kept our ability to produce locomotives as one of the foremost capabilities in the worldwide market.

So, yes, outsourcing is a worldwide phenomenon, and we are the beneficiaries far more often than we are the losers. In net, we are by far the winners.

Secondly, competitiveness, absolutely, top in communications, top in medical technologies. Take the Department of Commerce's list of the 18 top technologies, and we are the highest quality producer and the lowest cost producer in two-thirds of them. So, yes, we are driving the economic forces of America into the international market, but we must do more. We must help our companies compete.

We must pass this legislation to eliminate the retaliatory tariffs that have been put on American goods, thereby increasing their price abroad 10 percent and soon to be 15 percent.

We must reduce taxes on our manufacturers that compete internationally. We must do what we do in this bill, make it cheaper for them to invest in machinery and equipment and hire more people, and yes, we must go further.

We are going to have to do something to control and reduce health care costs so they can compete internationally. We are going to have to eliminate frivolous litigation and all the costs that that imposes on our industry and particularly on manufacturing, driven by pure greed.

So let us get with it. Let us pass this bill, and then let us go right down the agenda of the things we need to do to make American manufacturing more competitive in the international global market, but let us not pretend that outsourcing is the villain here. It is something we need to be able to do fairly and receive from other countries, and I urge opposition to this motion.

Mr. THOMAS. Mr. Speaker, how much time is left on my side?

The SPEAKER pro tempore (Mr. BASS). The gentleman from California (Mr. THOMAS) has 3½ minutes remaining.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3¼ minutes to the gentleman from Louisiana (Mr. MCCRERY), the chairman of the Subcommittee on Select Revenue Measures of the Committee on Ways and Means.

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

Mr. Speaker, this Democratic motion to instruct conferees reflects what is their increasingly obvious 19th century state of mind. One would think, listening to the comments of our colleagues on the left, that we are back in the industrial revolution, or maybe, they have moved forward to the first part of the 20th century, mid-20th century, maybe even right after World War II, when the United States was not only the biggest and baddest bear in the industrial woods but just about the only bear in the industrial woods. Those times have changed. This is the 21st century. The market has changed significantly.

One of my colleagues on the Committee on Ways and Means pointed out that he learned from Goldman Sachs that, over the last couple of years, we have seen 300,000 to 500,000 jobs outsourced, in other words, American companies creating 300,000 to 500,000 jobs off our shores in foreign countries. That is true.

But what he did not tell my colleagues and what he could have found out at Goldman Sachs or from our own Department of Commerce is that, during that same period of time, even more than 300,000 to 500,000 jobs were created here in the United States by foreign companies wanting to access our market. That is the 21st century market. No longer are we building infrastructure to transport American made goods from the east coast to the west coast like we did in the 19th century. Those were great days, but today, American companies have to build some of their things overseas to access those markets, to compete with the numerous companies that are in competition with them today, unlike the 19th century and mid-20th century.

In today's market, we dadgum better get over there and compete, or we will

lose market share, and when we lose market share, we lose income, and when we lose income, we are not able to invest, and when we cannot invest, we cannot create jobs.

Get with it. This bill gets with it. It modernizes our tax code. It says to our American companies, we realize they have got to compete in the world market, not just in the United States market, and oh, by the way, if they do produce products here in the United States and sell them overseas or even here in the United States, we are going to give them a tax cut.

One of my other colleagues on the Committee on Ways and Means said we need to target this tax relief to American manufactured goods. Well, guess what, this bill does that. The tax rate cut for manufacturers only applies to income derived from the sale of goods manufactured here in the United States.

So this Democratic motion to instruct basically is a bunch of hyperbolic language thrown out to scare people, to try to make it seem like they are the defenders of American jobs when just the opposite is true. This bill, crafted by Republicans, wants to create jobs here in the United States, preserve jobs here in the United States.

□ 1245

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

In history, Mr. Speaker, there are those who opposed change, modernization. They were called Luddites. Please vote ''no'' on the motion to instruct. Do not be a Rangelite.

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

The SPEAKER pro tempore (Mr. BASS). The gentleman from Michigan has 6½ minutes remaining.

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

Well, my Republican friend from Louisiana talks about the 21st century market and the chairman talks about modernization. So far, under those mantras, what has happened is more poverty in America, stagnant income for families in America under this administration, and millions of fewer jobs, almost 3 million fewer jobs in manufacturing. And if you call modernization their Republican tax bills, or if this is the 21st century market, just reading from the Detroit News, a rather conservative newspaper, summing up material from the CBO, in 2004 the average tax cut for the middle-income family is $1,090 and for the richest 1 percent it is $78,460.

I am for a 21st century market, Mr. Speaker, but not for that kind of a market. We are for modernization, but not for that kind of modernization. We cannot go backwards. We need to move forward. And here is what the bill did that came through here and is reflected in the dilemma that we have.

We had a $50 billion problem. The WTO ruled FSC inappropriate under WTO rules. What happened was, instead of passing a bill that was a bipartisan bill that addressed the manufacturing sector as FSC did, we ended up with about a $140 billion bill. Three times as large. And it is really larger than that because some of the provisions were to expire when they are unlikely to, and there was a delayed phase-in.

So, essentially, once again we are adding to a deficit because so much of this is not paid for. So we had a $50 billion problem. We now have a bill three times as large, and it is going to increase the deficit.

Now, let me point out quickly some of the provisions in this motion to instruct, because we need to look at the whole document. It says that we should accede to the Senate amendment so there is a deduction rather than a corporate rate reduction. That is of importance to many manufacturing companies in this country. The Senate bill is preferable.

Also, we say that this tax amendment should relate to all the businesses, not simply limited as in the House bill. We also indicate that we should accede to the Senate approach so that the rate reduction really reflects the amount of business done in the United States and not overseas.

And then we go on to provide a remedy for corporations that move their businesses in form overseas, called inversions, and say that we should accept the provisions in the Senate amendment. And we also say that we should drop the provision in the House bill that provides for private collection of Federal tax liabilities, a horrendous idea that I do not think most Americans will accept.

Now, let me say just a few words about the issue of outsourcing, of moving businesses overseas. The House bill had in it a number of provisions that will stimulate movement of operations overseas. One of them is not in the Senate bill. These are complicated provisions, but they have a simple clear-cut impact. The provision, for example, relating to tax credit baskets, the House would move it from 9 to 2. Essentially, this is going to stimulate the investment of companies in tax havens instead of bringing back the monies to the United States. It cost $8 billion. It is not in the Senate bill.

Then there are the so-called look-through provisions that are in both bills. Do not say that this will not stimulate movement of jobs overseas, because essentially, for a multinational, there will be encouragement instead of bringing the profits back here and investing them here to move those profits into a third country, often a tax haven country. That will stimulate the movement of jobs from here overseas.

When the Senate voted, they voted for this provision as part of a much larger bill that came to include a provision on overtime. So members of the Senate were faced with the dilemma of how we attack this problem of the elimination of FSC. And we need to do that, but focused on manufacturing. Do we look at the problem of overtime? And because they did not control the proceedings in the Senate, they were faced with a dilemma.

So let us be clear. You mentioned furniture. Go to North Carolina. Go there. China has been taking furniture business away from the United States unfairly. Overseas movement is a problem. Outsourcing is a problem. Vote for this motion to instruct.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. NEAL).

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

Mr. LEVIN. 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 of rule XX, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

## MESSAGE FROM THE SENATE

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

H.R. 4654. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

H. Con. Res. 475. Concurrent resolution encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games.

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

H.R. 4011. An act to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

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

S. 2742. An act to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1663) ''An Act to replace certain Coastal Barrier Resources System maps.''.

The message also announced that the Secretary be directed to request the return of the papers to accompany (S. 2589) ''An Act to clarify the status of certain retirement plans and the organizations which maintain the plans.'', in compliance with a request of the Senate for the return thereof.

## DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

Mr. SOUDER. Mr. Speaker, pursuant to House Resolution 803, I call up the bill (H.R. 3193) to restore second amendment rights in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 803, the bill is considered read for amendment.

The text of H.R. 3193 is as follows:

H.R. 3193

*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 ''District of Columbia Personal Protection Act''.

**SEC. 2. CONGRESSIONAL FINDINGS.**

Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) The law-abiding citizens of the District of Columbia are deprived by local laws of handguns, rifles, and shotguns that are commonly kept by law-abiding persons throughout the rest of the United States for sporting use and for lawful defense of persons, homes, and families.

(4) The District of Columbia has the highest per capita murder rate in the Nation, which may be attributed in part to local laws prohibiting possession of firearms by law-abiding persons who would otherwise be able to defend themselves and their loved ones in their own homes and businesses.

(5) The Federal Gun Control Act of 1968, as amended by the Firearms Owners' Protection Act of 1986, and the Brady Handgun Violence Prevention Act of 1993, provide comprehensive Federal regulations applicable in the District of Columbia as elsewhere. In addition, existing District of Columbia criminal laws punish possession and illegal use of firearms by violent criminals and felons. Consequently, there is no need for local laws which only disarm law-abiding citizens.

(6) Legislation is required to correct the District of Columbia's law in order to restore the rights of its citizens under the Second Amendment to the United States Constitution and thereby enhance public safety.

**SEC. 3. REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT FIREARMS.**

Section 4 of the Act entitled ''An Act to prohibit the killing of wild birds and wild animals in the District of Columbia'', approved June 30, 1906 (34 Stat. 809; sec. 1–303.43, D.C. Official Code) is amended by adding at the end the following: ''This section shall not be construed to permit the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons otherwise permitted to possess firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor regulated by the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.''.

**SEC. 4. REPEAL D.C. SEMIAUTOMATIC BAN.**

Section 101(10) of the Firearms Control Regulations Act of 1975 (sec. 7–2501.01(10), D.C. Official Code) is amended to read as follows:

''(10) Machine gun means any firearm which shoots, is designed to shoot, or can be readily converted or restored to shoot automatically, more than 1 shot by a single function of the trigger.''.

**SEC. 5. REPEAL REGISTRATION REQUIREMENT.**

(a) IN GENERAL.—Section 201(a) of the Firearms Control Regulations Act of 1975 (sec. 7–2502.01(a), D.C. Official Code) is amended by striking ''any firearm, unless'' and all that follows through paragraph (3) and inserting the following: ''any firearm described in subsection (c).''.

(b) DESCRIPTION OF FIREARMS REMAINING ILLEGAL.—Section 201 of such Act (sec. 7–2502.01, D.C. Official Code) is amended by adding at the end the following new subsection:

''(c) A firearm described in this subsection is any of the following:

''(1) A sawed-off shotgun.

''(2) A machine gun.

''(3) A short-barreled rifle.''.

**SEC. 6. REPEAL HANDGUN AMMUNITION BAN.**

Section 601 of the Firearms Control Regulations Act of 1975 (sec. 7–2506.01, D.C. Official Code) is repealed.

**SEC. 7. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.**

Section 702 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.02, D.C. Official Code) is repealed.

**SEC. 8. ADDITIONAL REPEALS.**

Sections 202 through 211 of the Firearms Control Regulations Act of 1975 (secs. 7–2502.02 through 7–2502.11, D.C. Official Code) are repealed.

**SEC. 9. REMOVE CRIMINAL PENALTIES FOR POSSESSION OF UNREGISTERED FIREARMS.**

(a) IN GENERAL.—Section 706 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.06, D.C. Official Code) is amended—

(1) by striking ''that:'' and all that follows through ''(1) A'' and inserting ''that a''; and

(2) by striking paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

**SEC. 10. REMOVE CRIMINAL PENALTIES FOR CARRYING A PISTOL IN ONE'S DWELLING OR OTHER PREMISES.**

(a) IN GENERAL.—Section 4(a) of the Act of July 8, 1932 (47 Stat. 651; sec. 22–4504(a), D.C. Official Code) is amended—

(1) in the matter before paragraph (1), by inserting '', except in his dwelling house or place of business or on other land possessed by that person, whether loaded or unloaded,'' before ''a pistol''; and

(2) by striking ''except that:'' and all that follows through ''(2) If the violation'' and inserting ''except that if the violation''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 803, the amendment printed in House Report 108–707 is considered adopted.

The text of H.R. 3193, as amended pursuant to House Resolution 803, is as follows:

H.R. 3193

*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 ''District of Columbia Personal Protection Act''.

**SEC. 2. CONGRESSIONAL FINDINGS.**

Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) The law-abiding citizens of the District of Columbia are deprived by local laws of handguns, rifles, and shotguns that are commonly kept by law-abiding persons throughout the rest of the United States for sporting use and for lawful defense of persons, homes, and families.

(4) The District of Columbia has the highest per capita murder rate in the Nation, which may be attributed in part to local laws prohibiting possession of firearms by law-abiding persons who would otherwise be able to defend themselves and their loved ones in their own homes and businesses.

(5) The Federal Gun Control Act of 1968, as amended by the Firearms Owners' Protection Act of 1986, and the Brady Handgun Violence Prevention Act of 1993, provide comprehensive Federal regulations applicable in the District of Columbia as elsewhere. In addition, existing District of Columbia criminal laws punish possession and illegal use of firearms by violent criminals and felons. Consequently, there is no need for local laws which only disarm law-abiding citizens.

(6) Legislation is required to correct the District of Columbia's law in order to restore the rights of its citizens under the Second Amendment to the United States Constitution and thereby enhance public safety.

**SEC. 3. REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT FIREARMS.**

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**SEC. 4. REPEAL D.C. SEMIAUTOMATIC BAN.**

Section 101(10) of the Firearms Control Regulations Act of 1975 (sec. 7–2501.01(10), D.C. Official Code) is amended to read as follows:

''(10) Machine gun means any firearm which shoots, is designed to shoot, or can be readily converted or restored to shoot automatically, more than 1 shot by a single function of the trigger.''.

**SEC. 5. REPEAL REGISTRATION REQUIREMENT.**

(a) IN GENERAL.—Section 201(a) of the Firearms Control Regulations Act of 1975 (sec. 7–2502.01(a), D.C. Official Code) is amended by striking ''any firearm, unless'' and all that follows through paragraph (3) and inserting the following: ''any firearm described in subsection (c).''.

(b) DESCRIPTION OF FIREARMS REMAINING ILLEGAL.—Section 201 of such Act (sec. 7–

2502.01, D.C. Official Code) is amended by adding at the end the following new subsection:

''(c) A firearm described in this subsection is any of the following:

''(1) A sawed-off shotgun.

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Section 601 of the Firearms Control Regulations Act of 1975 (sec. 7–2506.01, D.C. Official Code) is repealed.

**SEC. 7. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.**

Section 702 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.02, D.C. Official Code) is repealed.

**SEC. 8. ADDITIONAL REPEALS.**

Sections 202 through 211 of the Firearms Control Regulations Act of 1975 (secs. 7–2502.02 through 7–2502.11, D.C. Official Code) are repealed.

**SEC. 9. REMOVE CRIMINAL PENALTIES FOR POSSESSION OF UNREGISTERED FIREARMS.**

(a) IN GENERAL.—Section 706 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.06, D.C. Official Code) is amended—

(1) by striking ''that:'' and all that follows through ''(1) A'' and inserting ''that a''; and

(2) by striking paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

**SEC. 10. REMOVE CRIMINAL PENALTIES FOR CARRYING A FIREARM IN ONE'S DWELLING OR OTHER PREMISES.**

(a) IN GENERAL.—Section 4(a) of the Act of July 8, 1932 (47 Stat. 651; sec. 22—4504(a), D.C. Official Code) is amended—

(1) in the matter before paragraph (1), by striking ''a pistol,'' and inserting the following: ''except in his dwelling house or place of business or on other land possessed by that person, whether loaded or unloaded, a firearm,''; and

(2) by striking ''except that:'' and all that follows through ''(2) If the violation'' and inserting ''except that if the violation''.

(b) TREATMENT OF CERTAIN EXCEPTIONS.—Section 5(a) of such Act (47 Stat. 651; sec. 22—4505(a), D.C. Official Code) is amended—

(1) by striking ''pistol'' each place it appears and inserting ''firearm''; and

(2) by striking the period at the end and inserting the following: '', or to any person while carrying or transporting a firearm used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a firearms or hunter safety class, trapping, or a dog obedience training class or show, or the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition while the person is engaged in, on the way to, or returning from that activity if each firearm is unloaded and carried in an enclosed case or an enclosed holster, or to any person carrying or transporting a firearm in compliance with sections 926A, 926B or 926C of title 18, United States Code.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 803, the gentleman from Indiana (Mr. SOUDER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3193, and to include extraneous material thereon.

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

There was no objection.

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

Today, we will be debating a bill that will go a long way in protecting the constitutional rights of the residents of the District of Columbia.

As all may know, currently in Washington, D.C., citizens are prevented from owning any handgun at all. I am bringing before you today a bill that would restore the second amendment rights of D.C. citizens. I think it is important to note that my bill would not repeal any provision of D.C. law that bans gun possession by criminals, or that punishes violent crime.

In 1976, 2 years after Congress had granted the District of Columbia home rule, the D.C. City Council passed a bill which repealed the handgun ban in the District. The handgun ban actually arrested progress. In the 5 years before 1976, when the handgun ban was put into effect, the murder rate in the District of Columbia had fallen to 27 per 100,000 from 37 per 100,000, according to researchers at the American Enterprise Institute. Five years after the ban, the murders had climbed back to 35 for every 100,000 residents. From that point, it became worse.

In the 13 years between 1987 and 2000, D.C. earned the dubious distinction as the murder capital of the United States. In 2002, it once again had the highest murder rate per 100,000 residents, making it the murder capital of the United States 14 of the last 15 years.

There have been a lot of misunderstandings and miscommunication about what this bill does and does not do. So I will address the bill's provisions in the order in which they appear in the bill.

First, the bill prohibits the District from prohibiting residents from possessing a firearm that is legal for them to possess under Federal law, while still maintaining the Federal ban on private possession of any firearm regulated by the National Firearms Act.

Second, the bill would bring the District's definition of a machine gun into conformity with Federal law and the laws of the States. Currently, the District defines the term machine gun to include firearms that fire only one shot when the trigger is pulled. That is not what a machine gun is, of course. A machine gun fires repeatedly when the trigger is pulled and held back. The District's definition is simply factually incorrect, and this bill will perform the necessary correction.

Third, the bill eliminates the District's firearms registration requirement and, logically, eliminates the penalty for the possession of an unregistered firearm. This does not, however, in any way change the Federal requirement that firearm dealers maintain records of firearm sales. Dealers will still be required to maintain Federal forms which identify the purchasers of firearms by name, address, date and place of birth, and other factors.

Fourth, the bill eliminates the District's ban on private possession of handguns and handgun ammunition.

Fifth, the bill eliminates the District's ban on the use of firearms for protection at home. Currently, the District prohibits a person from having even a lawfully owned firearm at home, loaded and assembled, and unlocked.

While some States have laws designed to have people keep firearms secured in a similar fashion when they are unattended, the District's law requires people to keep firearms unloaded and disassembled or locked even if a violent criminal is attacking them in their homes.

The U.S. Constitution, the constitutions of 44 States, Federal law, and the laws of all 50 States, and the vast majority of Americans recognize the right to use firearms for personal protection. Only the District of Columbia prohibits a person from having a firearm assembled and loaded at home for the purpose of self-defense.

That is why 229 Members of this body are not supporters of the bill, they are cosponsors of this bill. Forty-four of the cosponsors are Democrats. This is truly bipartisan legislation that has come up from the demands of the American people.

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

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

Mr. Speaker, I am compelled to begin by noting the ludicrous logic on which this debate has already begun. The gentleman from Indiana (Mr. SOUDER), the prime sponsor, has just argued that gun safety laws cause murders by arguing the fallacious notion of causation. I am embarrassed for the statement.

Mr. Speaker, in my nearly 14 years in Congress, I have come to regard Members not only as colleagues but as friends. At the same time, I have seen various Members of Congress try to do some low-down, dirty, mean things to the people of the District of Columbia, all to promote their own political agendas against the will of the people who live here.

This bill to repeal the city's gun safety laws, when child gun killings have sharply increased, scrapes the bottom of the lowest level yet. As citizens, we in the District of Columbia do not take attacks on our all-American right to self-government lying down. I am grateful that these attacks occur less frequently today, and am particularly grateful to the appropriators who have

discouraged the use of the D.C. appropriation for such attacks.

Congress has seen that we are prepared to fight and fight hard, with D.C. appropriation fights in the past sometimes lasting 8 to 10 hours, with vetoes of our appropriation that we encourage to compel changes. And Congress has seen that we are always prepared to take the fight to the home district of a Member to let his own constituents know that their Member is taking time from their concerns to mettle in the local business of a local jurisdiction far from home.

□ 1300

Notwithstanding prior fights on D.C. matters, the attempt to repeal our gun safety laws is a brand new low for this body. That we are here discussing this matter is yet a new low. Repeal shows special contempt for the people who live here because the city has sharply reduced its homicide rate, now at a 20-year low, down almost 25 percent this year alone, and down 55 percent since the assault weapon ban and the Brady bill were passed in 1994. At the same time, the city is heartbroken that 16 children have been killed by gunfire, more than in any recent year.

Repeal advocates claim they want guns here to help people protect themselves. Can repeal help the children killed by guns in increasing numbers here in the Nation's Capital to protect themselves?

Mr. Speaker, I include for the RECORD the 16 names of the children killed by gunfire this year, and an article on Chelsea Cromartie, the youngest of these children.

MORE GUNS MEAN MORE CHILDREN DYING

Robert Adams, 16; Chelsea Cromartie, 8; Devaun Drayton, 17; Javon Gaskins, 16; Timothy Hamilton, 15; Jahkema Hansen, 14; Antoine Holroyd, 16; Myesha Lowe, 15; David McMorris, 16; James Richardson, 17; Michael Simms, 17; Franklin Smith, 17; Wardell Smith, 17; Michael Swann, 13; Roderick Valentine, 16 and Ashley Walker, 16.

D.C. Homicides Down 24% this year but, more children slain by guns in the first 5 months of this year than in all of last year and more than in any recent years.

Save Our Children.

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[From the Washington Post, May 16, 2004]

OUTRAGE SPEEDED PROBE OF KILLING CHELSEA'S DEATH GALVANIZED POLICE

(By Del Quentin Wilber)

The killing of 8-year-old Chelsea Cromartie generated a powerful response from the D.C. police. While homicide investigators worked the streets, teams of officers passed out fliers and set up roadblocks in an exhaustive search for witnesses. Top officials appealed for help and boosted a reward for clues.

Aided by a tip, police identified two suspects within a week of the Northeast Washington shooting. The police work drew praise from neighborhood leaders and fulfilled a promise made by top officials that they would catch whoever fired the bullets that missed their targets and flew into the home that Chelsea was visiting May 3.

Not every homicide in the District commands so much attention. In a city that is struggling with one of the nation's highest homicide rates, police must make difficult decisions about how to deploy resources. Witnesses frequently are difficult to locate and, even when found, sometimes refuse to give information. This year, police say, the homicide clearance rate is less than 60 percent.

Commanders and former top officers said they must assess a variety of factors after each killing—from the type of crime and the victim's history to how readily witnesses will help them. Although police insist that they investigate each homicide thoroughly, they said they often feel like battlefield surgeons performing triage.

The choices inevitably add to the grief of family members of victims whose crimes go unsolved.

Some D.C. Council members and victims' rights advocates said the department should use Chelsea's case as a model for future investigations by adding homicide detectives and offering bigger rewards. It is not fair, they said, that some slayings get more attention than others.

''Should one murder be more important than another murder?'' asked Kenneth E. Barnes Sr., whose son was slain in September 2001. ''I don't think so.''

Barnes's son, Kenneth Barnes Jr., 37, was a well-known shop owner on U Street NW who was killed during an apparent robbery attempt. The killer was sentenced to prison in that case. Barnes has since attempted to aid the families of other victims by creating a nonprofit group called Reaching Out to Victims Together.

Kami Emanuel's fiance, Derrick Taylor, was killed about 6:45 a.m. May 9 in Northeast Washington. She said detectives appear to be working hard but wondered why they have not raised the reward, now up to $25,000, in the case.

''A murder is a murder,'' said Emanuel, 27.

Police Chief Charles H. Ramsey said the department takes every killing seriously. He said he did not hesitate to focus so heavily on Chelsea's case. The third-grader was shot in the head while watching television in her aunt's home, and her aunt was wounded by another of the stray shots that came through the living room window.

The community was outraged, Ramsey noted, with scores of people attending a candlelight vigil and dozens calling police with tips. The killing became the lead story on local television broadcasts and was front-page news. Ramsey said police believed that they had a solid chance at solving the case if they acted aggressively, and they did not want to let any leads slip past them.

''It was hot,'' Ramsey said. ''Not every case generates that kind of interest.''

The nature of the crime and Chelsea's age attracted community attention and sympathy that helped fuel the urgency to solve the case. Detectives and other officers also could imagine their own daughter dying in such a senseless way, police officials said.

''Some cases, you don't have to ask guys to come forward and work,'' said lawyer W. Louis Hennessy, former commander of the D.C. homicide unit. ''These are unique cases. The guys take it upon themselves to go the extra mile.''

Last summer, as the department was under pressure as homicides spiked, Ramsey raised the rewards offered in homicide cases from $10,000 to $25,000 per victim. In Chelsea's case, the department swiftly doubled it to $50,000. The amount eventually reached $75,000 after a private contribution.

The donation came from William E. Schuiling, a Michigan resident and chairman of Brown's Automotive Group, which has dealerships in the Washington area. He pledged $225,000 more to help police solve other slayings of children. ''Nothing is more sickening or despicable to me as when someone kills an innocent child,'' he wrote in a letter to Ramsey.

Ramsey said officers and investigators were added to deal with the high volume of calls and leads about Chelsea's slaying. One crucial tip helped lead to the arrests of brothers Raashed and Ricardo Hall, who were charged with first-degree murder.

Community pressure and an all-out blitz by police are hardly guarantees that cases will be solved quickly. It took police nearly two years to solve the 1997 triple slaying at a Starbucks coffee shop in Georgetown. It took nearly a year to make arrests in the April 2003 slayings of three employees at Colonel Brooks' Tavern. And the slaying of former intern Chandra Levy remains unsolved three years after she disappeared.

Police received scores of tips in all three of those investigations. But such community interest in homicides—the city recorded 248 killings last year—is not common, detectives say.

Last year, Ramsey released a surveillance tape that showed a daylight killing at a Northeast Washington gas station—and witnesses doing nothing to report the crime or assist the victim. The killing of Allen E. Price remains unsolved.

Police detectives tell countless stories about uncooperative witnesses, even relatives who saw their loved ones killed but won't point out the killer. In some cases, witnesses fear they will be targeted. Police and prosecutors said that witness intimidation has been a long-standing obstacle to solving crimes.

Also, police said, friends of some victims would rather avenge killings on their own than help officials.

Investigators said they often identify suspects only to stumble when trying to persuade witnesses to come forward.

Two days before Chelsea was slain, D.C. police were called to investigate a midafternoon killing in a Southeast Washington housing complex. Detectives quickly discovered evidence that pointed to a gun battle: Shell casings from at least four weapons littered the street.

Scores of residents watched as technicians and detectives scouted for evidence, recalled Lt. Guy Middleton of the violent crime unit. Yet despite the public nature of the gunfight in the Barry Farm complex and detectives canvassing and recanvassing the neighborhood, no one came forward with information, Middleton said. The slaying of Antonio Blakely, 18, who lived in another part of town, remains unsolved.

''It's frustrating,'' said Middleton, a veteran homicide investigator and supervisor. ''The people continued to stand there when the police arrived. All were out there when it happened.''

D.C. Council member Kathy Patterson (D–Ward 3), chairman of the Judiciary Committee, said police could do more in solving homicides. She said officials should add more detectives and resources for investigations. ''Every case should have the kind of tenacity and commitment'' that the Chelsea case did, Patterson said.

But some former police officials said that certain killings—such as Chelsea's—demand more attention.

''There is something exceptional about this homicide,'' said Isaac Fulwood Jr., the District's police chief from 1989 to 1993, comparing the handling of the case to how officers work round-the-clock to solve the killing of fellow officers.

''You can't shoot 8-year-old girls sitting in their house watching television,'' Fulwood said. ''Everybody was fired up by this little 8-year-old girl. I don't care what you have to stop doing, you have to get on this homicide. That is the reality of it.''

Mr. Speaker, more guns in the Nation's Capital is a new low because it makes a mockery of our congressional obligation and of our actions to secure the Nation's Capital against terrorism. Only Washington, D.C. and New York City are under an orange alert. No car can travel on the streets approaching the Capitol without getting in checkpoint lines for police to inspect the inside of the car. So terrified were Capitol Police of possible terrorism that they rushed to put permanent 19th century approaches in place, including closing the only major street leading to the transportation hub of the region, Union Station.

Encouraging guns, including fully-loaded handguns and military-style assault weapons that will soon make their way to the Nation's Capital as we struggle under an orange alert would disgrace the Nation here and around the world. Creating a new and expanded gun culture here in the midst of an orange alert is an act of reckless irresponsibility.

If Members vote for H.R. 3193, Members are voting to repeal not only D.C.'s handgun ban, but also its ban on military-style assault weapons. Upon repeal, a loaded AK–47 or a Bushmaster, like the one used in this region in the infamous 2002 attack by the snipers that killed 10 residents in Virginia, Maryland, and D.C. and injured 5 others, this weapon could be kept here in homes, fully loaded, in workplaces, in businesses.

D.C. Police Chief Charles Ramsey warns that these guns would make their way so quickly to the streets they would not have enough men and women to confiscate them all, even though they have confiscated record numbers this year. And he said yesterday when he came here to specially plead against this bill that this bill would increase gunfires in the streets of the Nation's Capital and drive-by shootings.

Astonishing, if Members vote for H.R. 3193, Members will be voting to allow children under 18 years of age to own semiautomatic and assault weapons. This year, the very year that 16 children have died from gunfire, the year dominated in the local news by grieving for children killed by guns, Members will be voting to allow people to carry guns who have been declared by a court to be chronic alcoholics or to have negligently killed someone with a gun.

If Members vote for H.R. 3193, Members will be voting to repeal a requirement that gun owners notify police if guns have been stolen or lost. Surely at a time when guns are being used by kids to kill kids here, it should be a requirement of citizenship to at least warn the police that a gun has fallen into the hands of criminals.

A vote for repeal is a vote against the requirement that handguns and semiautomatic weapons be kept locked away from children. That is pathetic, Mr. Speaker. A vote for repeal is a vote for a provision in the bill that is an earmark of its extremism. Local officials would not be allowed to even discourage private ownership of handguns and assault weapons.

Although the present D.C. gun law has been held to be constitutional by Federal and local courts, the gentleman from Indiana (Mr. SOUDER) and his allies nevertheless persist in citing the second amendment as the raison d'etre for this bill. Therefore, I invite the gentleman from Indiana (Mr. SOUDER) and other proponents to divert some of their attention from the second amendment to the first. Despite their efforts, they will not be able to keep me, Mayor Williams, or School Superintendent Clifford Janey or other residents from discouraging the use and ownership of weapons.

The Constitution may allow the gentleman from Indiana (Mr. SOUDER) to deny me a vote this very day on this bill that affects only the people I represent in the District of Columbia, but the gentleman cannot silence me or anybody else in the District on the matter of guns or on any other matter. The insult to American principles of self-government and home rule is too obvious and painful to belabor.

This bill is the best argument for home rule. We see in this bill why local control is a core principle of American citizenship. As a people, we stand for the proposition that local matters are for local people. No matter is more local than public safety close to home. No one is in a better position to write laws about safety in the homes, the workplaces, the businesses and the streets of the local jurisdiction than those who must live under those laws 24–7.

This bill, we are told, has the paternalistic purpose of allowing the poor, ignorant, elected officials and people of the District of Columbia to protect themselves. Thank you very much, presumably because we are lesser beings who do not even have enough sense to figure out the most basic of principles concerning their own public safety. What we cannot figure out is how gun safety repeal would have enabled Chelsea Cromartie, 8 years old, a third grader, to have protected herself from the stray bullet that killed her, although she was inside in the living room of her own aunt.

This bill has gathered residents into a tight no-repeal coalition from businesses in the Greater Washington Board of Trade to parents whose kids were killed as bystanders near their schools. Trying to make the case for this bill on the basis of self-defense is to dance on the graves of Chelsea Cromartie and 15 other defenseless children killed by gunfire this year. We in the District of Columbia refuse to dance with you.

Mr. Speaker, in the name of the children of this city, who are at the greatest risk if this bill passes, we simply alert Members we will fight you now, we will fight you until the end, and then for this child and for other children in this city, we will get up and fight you some more.

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

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

Mr. Speaker, facts are stubborn things, and the fact is that today D.C.'s murder rate is still 8 times higher than the national average.

Mr. Speaker, I yield 2½ minutes to the gentleman from Tennessee (Mr. WAMP).

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

This is an emotionally charged issue and I can understand why. I think it is important, though, that we adhere to the facts. The gentlewoman from the District of Columbia (Ms. NORTON) used the words ''fallacious'' and ''ludicrous.'' It is ludicrous to suggest that if we had a gun ban all across the country, that the bad guys would not have guns and that the good guys would then be better off. It is ludicrous to suggest that bad guys that do not honor the law are not going to always have guns in this society.

It is fallacious to insinuate to people that somehow they are going to be safer if you ban guns. There are no facts to back that up. Gun control does not work. I am not interfering in the District of Columbia, that is a fact everywhere in this country. Gun control does not work. There is no science to show that it works. As a matter of fact, what the truth is that when we control guns, the bad guys have plenty, and there is a gun culture, and the good guys cannot defend themselves.

In the State of Tennessee, my father-in-law has a right to carry, and our family is safer because he does. We are in a new world. The last time that 3,000 innocent American lives were lost on September 11, guns were not used. Airplanes and fuel was. It was the most destructive, violent act in our country's history in this homeland. Guns were not there. I do not know what is next, but I think people have a right to defend themselves, and gun control simply does not work. Public policy should not be based on emotion, and this is emotionally charged. It should be based on science, facts, logic, and the truth. The truth is this policy does not work.

I just came back from Africa. I was in Dar es Salaam and Johannesburg; dangerous cities. Interestingly, they remind me that the city I work in here is more dangerous than the cities there. Let us be honest about this, and let us rise above the emotion. Gun control does not work anywhere, including the District of Columbia.

Ms. NORTON. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. WAXMAN), the ranking member of the full committee with jurisdiction over this bill.

□ 1315

Mr. WAXMAN. Mr. Speaker, I rise in opposition to this bill. The other side

would have you believe that they want to repeal legislation in the District of Columbia to stop handguns. But that is not what this bill does. This bill repeals the District's laws on assault weapons. I want to show a chart, if I might, because one of the assault weapons that would be made legal if this bill passes is a semiautomatic 50-caliber sniper weapon. This is its actual size. It is capable of taking out an armored limousine from a mile away. Can you imagine that in the District of Columbia someone could have this assault weapon and stick it out of a window on Pennsylvania Avenue? We have people coming in and out of this city who are very important to the functioning of our government, international visitors. Yet they could own and possess this weapon if the legislation before us passes.

We are spending millions of dollars to protect the Nation's capital from another terrorist attack, yet we are passing legislation today that would invite terrorists to bring assault weapons into the heart of the Nation's capital.

There is a real irony. There are committees that are meeting today to pass different parts of legislation based on the recommendations of the 9/11 Commission. Those recommendations were to make our Nation safe from terrorist attacks. Yet in this bill we are telling terrorists that it is okay for them to have assault weapons when they visit the Nation's capital.

We are under an orange alert because someone working with al Qaeda took photos of the World Bank, the IMF, and other buildings in D.C. Think of the damage that person could have done if he or she had a 50-caliber sniper weapon instead of a camera. Two years ago, this city, this whole region was gripped with fear when a sniper systematically stalked and killed 10 people. The gun he used was the Bushmaster XM–15 assault rifle. Along with AK–47s and Uzis, the Bushmaster assault rifle is one of the guns that this bill would legalize.

The vast majority of the people in this Nation support the Federal ban on assault weapons. Even the President said he supported the continuation of the assault weapons ban, but we could not even bring it up for a vote in the House of Representatives. Instead, the Republican leadership in the House has brought up to the House floor legislation that makes assault weapons legal in the Nation's capital. I wonder if they are going to get around to mandating that each Member of Congress buy an assault weapon rather than ban it all around this Nation.

This bill is being rushed to the floor to score political points with the NRA. The bill is an abomination. I urge my colleagues to defeat it.

Mr. SOUDER. Mr. Speaker, it would be illegal to shoot such a weapon now, and it would continue to be illegal to shoot such a weapon at an armored truck or anybody else under my legislation.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. HOSTETTLER).

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

Mr. HOSTETTLER. I thank the gentleman for yielding me this time and commend him on his legislation that I am speaking in support of.

Mr. Speaker, those of us who have the honor of serving in Congress are in good hands. In the Capitol, in our office buildings, for several blocks in each direction, we enjoy the protection of the Capitol Police, the Park Police, the Secret Service and the Metropolitan Police. Though they represent different law enforcement agencies, these officers all have one thing in common, they all carry guns. So why is it that residents of Washington, D.C. are forbidden from protecting their families in this same fashion?

The D.C. police, though hardworking, do not have the resources to set up a perimeter around neighborhoods the way they do for us. In reality, D.C. police usually respond after a crime has been committed. Yet D.C. residents are forbidden by law from defending themselves.

As many residents of Indiana and Virginia and Texas and Florida and Vermont know, a firearm is an effective deterrent against crime. Even the threat of a firearm can frighten off a criminal. John Pena, born, raised and currently living with his family in southeast Washington, D.C., about 13 blocks from here, was at home recovering from eye surgery a couple of years ago when he heard a noise downstairs. Despite his severely blurred vision, he investigated and found a burglar in his living room. Mr. Pena is a Navy veteran and served in Vietnam, but he was in no condition to confront this criminal. So thinking quickly, Mr. Pena called upstairs to his retired father, ''Dad, get the gun.'' Mr. Pena was bluffing and I do not want to suggest that he had then or has today a firearm in his residence. But at the mention of a gun, the thief turned and ran out the back door in such a hurry he neglected to open the storm door, cutting himself as he crashed through it.

Mr. Speaker, we feel secure here on the Capitol grounds knowing we are protected by men and women with guns. Tens of thousands of my constituents in Indiana also keep their families safe with the presence of a gun. It seems to me that a criminal's dream would be a city where law-abiding citizens are disarmed. Preventing these law-abiding citizens, our fellow Americans of Washington, D.C., from enjoying the same protections the rest of us enjoy is unsafe and unfair.

Ms. NORTON. Mr. Speaker, I take the gentleman's suggestion that we can scare criminals away by yelling ''gun'' but not that we have guns in our own homes fully assembled, loaded and ready to go.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, have we become unhinged in this House? The business that most of us are engaged in all day today and the business that we will be engaged in all next week is trying to pass responsible reforms to implement the recommendations of the 9/11 Commission, recommendations intended to make us safer. While we do this, hopefully on a bipartisan basis, we are debating today a wedge issue designed to make the people who live in the District of Columbia, the Members of Congress, and our families less safe.

Let us understand what we are talking about here. I am reading from the description of this bill. We are repealing the ban on semiautomatic weapons, we are eliminating criminal penalties for possessing an unregistered firearm, and we are amending Federal law to eliminate criminal penalties for carrying a pistol whether loaded or unloaded.

This is incredible, Mr. Speaker. I am astonished that this House would even spend 2 seconds on this issue. Maybe this is good rhetoric in somebody's campaign, but it is bad policy for the United States of America. Shame on this House for wasting time on this bill. I strongly oppose it.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN), a distinguished member of the Subcommittee on Criminal Justice of the Committee on Government Reform.

Mrs. BLACKBURN. Mr. Speaker, I rise in support of the legislation that is offered by my colleague from Indiana. The gentlewoman from the District urged us to respect her and the District residents where the city's gun laws are concerned, and I trust that she will be pleased to know that is exactly what this bill proposes to do. This is because right now residents of the District do not have an option. The law prohibits them from using a firearm to defend themselves and their families in their own homes and it prohibits them from acquiring handguns and other guns whether for defensive, sporting, hunting, or recreational purposes. This bill will give them an option by taking those prohibitions away.

If anyone from the District does not want to have a gun in their home for protection, they will not be required to do so. If they do not want to use a gun for target practice, recreation, hunting sports, they are not required to do so.

The only purpose of the bill is to give people an option, to let them decide whether to have a gun for protection or any other of the legitimate uses.

If no one in the city steps up to buy a gun, then that is fine, because it is their decision. I suspect, though, that many of my colleagues realize that there will be quite a few law-abiding Washingtonians who will want to exercise their individual right to arms and their right to engage in shooting sports and recreation as millions of Americans do. This bill protects their rights.

Ms. NORTON. Mr. Speaker, for the information of the gentlewoman, 100,000 guns are registered in the District of Columbia. We encourage people to use rifles for sports.

Mr. Speaker, I am pleased to yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. I thank my colleague from the District of Columbia for yielding me this time.

Mr. Speaker, I rise in strong opposition to this bill. Our troops are struggling in Iraq. The budget deficit is at an all-time high. The Republican-led Congress has failed to finish its work on the budget, on appropriations bills, the highway bill, all of the legislation vital to keeping our country going, and the response from the Republican leadership? Pass a bill repealing gun laws in the District of Columbia.

Mr. Speaker, this is a bad bill on its own merit and an affront to the citizens of Washington, D.C. The citizens of this District have the right to enact laws to make their neighborhoods safer without interference from the Congress and the NRA. This is election-year politics practiced at the expense of District residents who do not even have a vote in the House or the Senate.

Mr. Speaker, the fight against terrorism is a focus of this Presidential campaign, as it should be, and the fight against terrorism is a given in our daily lives. We live in a time of high alerts. Checkpoints now ring this Capitol. Yet passage of this bill into law would certainly not aid in our war against terrorism. It would in fact encourage proliferation of weapons in the immediate vicinity of the Capitol, the White House, the Supreme Court, and scores of Federal agencies and foreign embassies located throughout this city.

One would think that our congressional leadership would want us to support the policemen and -women who work to protect us and these institutions which are such national symbols, all of which present tempting targets for terrorists or the deranged.

But this legislation would undermine the efforts of our local law enforcement and put our police at even greater risk. It is an antipolice bill, abuse of congressional power, and an attempt to draw attention away from what we should be working on. I urge my colleagues to vote down this ill-conceived measure.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I rise in support of this legislation. I learned a long time ago serving in the Colorado State legislature that criminals do not care about the laws we pass. They do not know who their Congressman is. They do not know who their Senators are. They do not have respect for law or lawmakers.

Right here in Washington, D.C., there are many things that we are extremely proud of. One of the things, though, that really is a blot is the infamous distinction as the murder capital of the world. I think that we need to give criminals who would commit heinous crimes in this District of Columbia pause. I think we ought to make them wonder whether or not an individual that they would harm, whether or not they are going to harm a family or try to rape a woman or murder someone, give them pause, let these criminals wonder if that individual might be able to defend themselves.

It is important when we think that businesses in this District, business owners can have guns on the premises, but individuals cannot have guns that are ready to use in their homes to protect their family. All of us know that our family members are more important to us than any material possession that we have. We need to give individuals in the District a right to defend themselves and we need to give these criminals that make this the murder capital of the world a doubt in their mind as to whether or not someone will be able to defend themselves.

Ms. NORTON. Mr. Speaker, I am pleased to yield 1¾ minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, let me say how much I appreciate the Delegate from the District of Columbia for carrying on the good fight. It is ironic that this bill proposes to implement constitutional rights to the District of Columbia when in fact this body has not allowed the District of Columbia to have a voting Member of the United States Congress and voting Members of the United States Senate. This is a cruel hoax under the guise of a constitutional amendment.

I watched some of the hearing yesterday, and it was ironic. This bill was introduced a year ago. Since it was introduced, I thought it had gone to the mortuary and that rigor mortis had actually set in on it, and I was applauding it. But then I found out yesterday that it was just in a calling period where people could come by the pew, sign the book until you got over 200 signatures on the book, and then you get it out.

This bill also came out after this House celebrated the life of Ronald Reagan who was shot in this city, the District of Columbia. And I apologize to Mr. Brady who is still paralyzed from a bullet shot in this District. The President said he wants more minorities to join the party of Lincoln because he was the Great Emancipator. Lest we forget, Abraham Lincoln was assassinated, too, by a bullet. He was a Republican. Garfield was a Republican. He was assassinated.

We are so patronizing. We know what is best for the District of Columbia. The chief of police said they do not want the bill. The Mayor says he does not want the bill. The council does not want the bill. The newspapers had an editorial against the bill, and we are going to impose this anyway.

As we speak today, we are memorializing a police officer who came from the gentleman's district, Fort Wayne, Indianapolis, and was killed last week by a bullet. A month before that, we memorialized another police officer that was killed by a bullet, and I bet nobody on this bill ever visited one of the families of the grandmothers that were killed in this District.

This bill is one of the worst pieces of legislation that I have seen as a Member of this House, and I apologize to the grieving families for it.

□ 1330

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

One would think that the District of Columbia has a good record rather than eight times the national average, leading the Nation 14 of the past 15 years in the murder rate. As a former mayor said, ''Other than the killings, their crime rate is not too bad.'' ''Other than the killings'' is a relevant thing here. We are trying to make sure honest citizens can protect themselves, not just the criminals.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. CARTER), a member of the Criminal Justice, Drug Policy and Human Resources Subcommittee, and a former judge.

Mr. CARTER. Mr. Speaker, I rise in support of this bill. I want to tell some stories. For 20 years, I tried cases. I tried felony criminal cases, drive-by shootings and other things which are the kind of stuff we read in the newspapers in D.C. every day, and I can say that the weapons that were used were acquired illegally and illegitimately, and the bad guys always had the chance to get their hands on guns. But the good guys that have guns deter crime.

We passed a right-to-carry permit in Texas after a deranged person walked into a Luby's Cafeteria in Texas and just began randomly shooting the diners in a crowded Luby's Cafeteria. As a result of that right-to-carry permit, which enhanced our laws in Texas, the amount of violent crime has fallen off about 40 percent with the use of handguns. And what is interesting, if that same person were to walk into a Luby's Cafeteria today, he would not know whether or not there might be anywhere from two to 15 armed persons in that place who could return fire, and it would deter him from doing so. And that is a proven fact.

The weapon that was shown today as an assault weapon, a semi-automatic rifle, I hunt with a semi-automatic rifle, and with the right cartridge, it will shoot through anything. But that is a perfectly legal and legitimate weapon. An automatic weapon that fires fully automatic is probably, as we speak, in the hands of someone who likes to do drive-by shootings in this town because the criminals will get their hands on fully automatic weapons, which are assault weapons and have been against the law in this country since the 1930s.

So the reality is, if we have a ban on guns, we ban those guns from the people who need to protect themselves.

Ms. NORTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in opposition to H.R. 3193, and I respect the gentleman from Indiana's perspective on this issue. I think there is room in the House for disagreement. But my opposition is based on the legislation's blatant and potentially dangerous assault on home rule in the District of Columbia.

There is an appropriate place for debate on D.C.'s gun laws, and that place is the chambers of the District of Columbia Council, not the floor of the House of Representatives.

This bill repeals protections from gun violence that have been sought by the citizens of the District. It would end the city's ban on semi-automatic assault weapons, its ban on armor-piercing or ''cop killing'' ammunition, its requirement for gun registration. Even if we want to debate the merits of the gun laws, no one should question the importance of keeping fully loaded assault weapons off the streets of the Nation's capital.

Ninety-seven percent of all guns used in crimes in the District originate outside the District. Children in the Nation's capital are already at risk. This year, 21 young people in the District, all of them under 18 years of age, have been killed, most of them by gunshot. Our priority should be in reducing this disturbing rise in juvenile slayings, and I do not think this legislation helps.

The crime rate, by the way, in the city is going down. The police chief was quoted just last week as saying a 13 percent drop in overall crime this year, 24 percent reduction in homicides this year.

Proponents of this bill want to frame this debate in terms of the constitutionality of the District's law, but that is a straw man. Earlier this year, a U.S. District Court rejected constitutional challenge to the District's statute. This is a home rule fight. We do not allow the city a vote on the House floor, and now, we are taking away the rights of the Council and the elected mayor of the city to make decisions that they have made and will omit Oak Park, Chicago, Evanston, Illinois. We are not touching those areas that have representation in this body. We are just dealing with the Nation's capital. For our system of federalism and democracy to work, States and localities need to be able to make their own decisions on these sorts of matters, even if some of us think they are bad decisions.

We are only here today because of Congress's plenary power over the District. This is a constitutional authority that is unfortunately occasionally abused as it is in this case.

I urge my colleagues to join me in voting ''no.''

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, with all due respect to the chairman of the Committee on Government Reform, this is a constitutional argument, and I rise today to express my support for the D.C. Personal Protection Act, which would restore the second amendment rights for the residents of Washington, D.C.

This legislation will allow law-abiding citizens the right to own rifles, shotguns and handguns and permit the storage of these firearms in their homes. The District of Columbia, again, has been labeled the murder capital of America, and that is 14 of the past 15 years. And that is despite its current ban on guns. It is time we lift this ineffective law and bring back the constitutional rights of individuals who reside in our Nation's capital.

Under the current law, even legal handgun owners cannot carry them into their own homes or use illegal firearms to protect their life or property. In 2002, while this gun ban had been in effect for 25 years, Washington's homicide rate was five times higher than the national average. It is obvious the ban is not working.

The D.C. Personal Protection Act would eliminate criminal penalties for legal possession of firearms and repeal the ban on the possession of ammunition. If enacted, this legislation will simply afford residents the same self-defense as the rest of the country.

It is easy for my friends on the other side of the aisle and the editorial board of the Washington Post who live in affluent or safe neighborhoods to take aim at the personal freedoms of law-abiding citizens here in Washington, D.C., and many of them living in the southwest live in neighborhoods that have become battlegrounds where criminals run the streets. So it is time to give them the right to defend their lives, their personal property. Congress must take action and give that second amendment right back to the law-abiding citizens of Washington, D.C.

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

My law-abiding citizens in the southeast and everywhere else in the District of Columbia have not elected this Member but only the Member before him. So I would appreciate the courtesy of his not telling me what the law-abiding citizens of the southeast want or need. They will get rid of me if I am doing the wrong thing today. They cannot touch him, unfortunately, if he does the wrong thing.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, when I listen to this debate and I hear everyone talking about giving the people of D.C. the right to protect themselves, we have seen crime deterred here in the D.C. area. We are seeing less gun violence here in the D.C. area. But, again, last night in the Committee on Rules, we tried to at least ban assault weapons in the D.C. area, large-capacity clips, killer bullets. Unfortunately, all those amendments were turned down.

We heard earlier from the other side of the aisle that we have all the security of the Capitol Hill Police. We do, and we are very lucky on that. And now, we are going to put them all at risk because they are going to be allowed to have the guns back in the D.C. area.

This is absolutely crazy. Assault weapons coming into the D.C. area when our men out there and our women out there are there to protect us.

And, by the way, I happen to think by reducing gun violence there has to be several approaches: Enforce the laws on the books; make it harder for criminals to be able to get the guns; and why in God's name are we cutting out the COPS Program? We have seen, going on across this Nation and here in D.C., that it works. And yet we are going to take that program away. The people of D.C. have the right for home rule. They do not want the guns. I think they know better than those Members here in Congress who are not living in the D.C. area.

So, with that, I hope that we can defeat H.R. 3193. And it is not fair. This is not democracy, and reducing gun violence can happen. Over 30,000 people a year die on that. It costs this Nation a billion dollars in health care. We can do a better job.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the State of Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, the second amendment to the Constitution clearly prohibits the Federal Government from denying law-abiding citizens, let me underline that, law-abiding citizens the right to own and bear arms. Yet the residents in our Nation's capital are deprived of this right. Full-time and part-time residents like Members of Congress are actually denied the right to defend themselves. This is the very city that is the home to America's experiment in democracy. It deprives its citizens of one of our most basic and sacred rights.

D.C. is a prime example of the failure of radical gun-control policies. The city has one of the most restrictive gun-control policies in the country, and yet D.C. is infamous for its exorbitant amount of violent crime. The city has gun-control but not very much crime control.

Since 1976, the residents of our Nation's capital have been deprived of the right to bear arms, the right to protect their homes and the right not to be victimized. For 28 years, D.C. families have been held hostage. D.C. communities and homes are no longer safe. Unfortunately, they have become targets for theft and violent crimes. Regrettably, individuals on my D.C. staff who live here have suffered the effects of poor crime control. In addition to my staff, I have personally experienced situations where I have felt threatened in and around my D.C. residence. I believe that I should be able to defend myself against assault, theft and other violent crimes in D.C., the same as I am able to do in the State of Florida because I have a carry permit. And I also have had training. I believe that the answer is tougher laws against criminal activities.

H.R. 3193 ends the tyrannical reign of D.C.'s repressive gun-control laws and returns to law-abiding citizens the right to protect themselves.

I urge my colleagues to also support this bill.

Ms. NORTON. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. CLAY).

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

Mr. Speaker, I rise in opposition to this legislation which will turn the District of Columbia into a security nightmare. Just over 2 weeks ago, this body ignored the appeals of law enforcement and ignored overwhelming public opinion and allowed the ban on assault weapons to expire.

Now, Members of this body are trying to repeal every one of the District of Columbia's firearms laws. Since the 9/11 disaster, the Federal Government has directed billions of taxpayer dollars to make our Nation's capital safer for residents, commuters, tourists, public officials and the law enforcement professionals dedicated to public safety.

Today, security is the single overwhelming challenge facing our Nation. As I speak, the Capitol Hill Police are manning checkpoints around the perimeter of the Capitol, searching private automobiles and inspecting public buses. Law enforcement officials have bravely risen to this challenge of the terrorist threat that exploded in our skies.

Mr. Speaker, this bill makes a mockery out of law enforcement's commitment to safeguard the Nation's Capitol and to protect the Members of this Congress. This body should be ashamed to engage in such hypocrisy.

Mr. SOUDER. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from Arkansas (Mr. ROSS), the lead Democratic cosponsor of this bill. We have 44 Democratic cosponsors, and I very much appreciate his leadership and help on this issue.

Mr. CARSON of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. ROSS. I yield to the gentleman from Oklahoma.

(Mr. CARSON of Oklahoma asked and was given permission to revise and extend his remarks.)

Mr. CARSON of Oklahoma. Mr. Speaker, I rise in strong support of H.R. 3193, the District of Columbia Personal Protection Act. To put it as simply as other speakers have, this bill restores constitutional self-defense rights to law-abiding citizens of the District of Columbia.

Currently, the District of Columbia has the strictest gun-control laws in the Nation. Honest, law-abiding citizens may not possess a handgun unless it was registered before 1977.

□ 1345

Legally owned rifles and shotguns must be kept unloaded and disassembled. These restrictions make it useless for District residents who wish to defend themselves against criminal attacks. This dangerous gun control law only infringes on the rights of those who obey the law and does nothing to reduce violent crime.

These laws have made Washington, D.C. the homicide capital of America and to those in my party who disagree, and I know there are those who do, I merely suggest that they consider the following facts: Prior to the enactment of the gun ban, the number of homicides had been declining in Washington, D.C. but increased after the ban was imposed. By 1991, Washington, D.C.'s homicide rate had risen more than 200 percent. By comparison, the national homicide rate rose 12 percent in the same period.

These statistics clearly show that the District's gun control experiment has failed. It is time the Congress restore the second amendment rights to the citizens of the District and allows them to protect their homes and families.

I respectfully ask my colleagues to vote yes on the District of Columbia Personal Protection Act.

Mr. ROSS. Mr. Speaker, reclaiming my time, I rise today and join 43 of my Democratic colleagues to voice my support for H.R. 3193, a bill that would allow citizens of the District of Columbia to own rifles, shotguns and handguns.

The second amendment of the Constitution of the United States of America specifically grants all Americans the right to bear arms in order to protect themselves and their families. Under this bill, Washington, D.C. citizens would simply have the same self-defense rights as residents of the 50 States of America do.

In a New York Sun editorial printed on Thursday, September 23 of this year, a D.C. resident expressed his concerns on not being able to legally protect his home from intruders. He stated, ''The fact is, if you have an intruder come to your home, there is nothing you can do to protect yourself except wait for the police.'' This Washington, D.C. resident went on to describe an incident where he stared and waited as a man was attempting to break into his home.

This is absolutely inexcusable. No one, no one, should be forced to sit and wait while witnessing an intrusion upon their home, upon their family, possibly putting themselves and their family in danger.

Mr. Speaker, I stay in Washington, D.C. 3 or 4 nights most weeks, and I truly believe the police do a fine job in this city. But if someone were to break into my apartment, I would have to wait for them to arrive before any action to be taken.

If I were to have a gun, if I were to have gone through all the red tape, which includes taking an exam and paying money for fees and a license to have a shotgun in my home, I would have to take the time to assemble or unlock and load my gun. By that time, it could be too late to defend myself. No intruder is going to stand around and wait for me to assemble or unlock and load my gun, and they certainly are not going to wait for the police to arrive before completing the job they came to do.

Mr. Speaker, this is not just a matter of personal protection, it is a matter of constitutional freedom. The second amendment is a right bestowed upon us by our Founding Fathers. It is a right I have exercised my entire life in my home State of Arkansas.

Current Washington, D.C. law requires all guns to be registered with the Metropolitan Police Department. All handguns are banned unless they were registered before the gun ban was enacted, but, even so, Washington, D.C. citizens are prohibited from carrying their handguns in their homes, even those legal handgun owners. Rifles and shotguns can be legally registered and owned, but they must be stored unloaded and disassembled or locked.

The District of Columbia has some of the most restrictive gun laws in the Nation, but at the same time, the District has one of the highest murder rates in the United States of America. Prior to the enactment of the gun ban, homicide had been declining in Washington, D.C. but increased after the ban was imposed back in 1976. In 2002, the D.C. homicide rate was almost double the rate when the handgun ban took effect, and was five times higher than the national average.

H.R. 3193 simply allows law-abiding citizens to possess a firearm without going through the registration requirements and they would not suffer criminal penalties for such possession. This bill permits storage of armed firearms in one's home or place of business and repeals the ban on the possession of

ammunition, allowing citizens to protect their home and family in times of danger within Washington, D.C., as families can do in all 50 States across America.

H.R. 3193 would not affect any law directed at true criminal conduct. This bill leaves in place strict penalties for gun possession by criminals and for those who commit a violent crime with a gun.

Any criminal interested in obtaining a gun for harm against another can easily do so right now. This bill simply ensures that law-abiding citizens of the District of Columbia are able to protect themselves by legally owning a firearm, just as the citizens of the 50 States of America can do.

Mr. Speaker, this is a piece of commonsense legislation, and I urge my colleagues to join the 44 Democratic cosponsors of this legislation and vote in favor of the bill.

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

Mr. Speaker, in all deference to the gentleman from Arkansas, handguns in homes in this town are not used by people. Those guns, according to the police chief, quickly make their way to the streets and do not stay at home. At home, however, they are overwhelmingly used for domestic violence.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FATTAH), the ranking member of the Subcommittee on the District of Columbia of the Committee on Appropriations.

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

Mr. Speaker, you would not know by today's discussions that the President, the other candidate for President, Senator KERRY, and all of the Nation's leaders have been telling us that we are at war, that we are in this war on terrorism, because there has been no discussion about that today, even though on the front page yesterday of one of the Washington newspapers it says that our number one enemy, al Qaeda, is meeting with and making arrangements with local criminal gangs here in D.C., for whatever purposes.

You would not know that we are at war. You would not know this was on the front page of the papers yesterday. You would not know that because of all of this discussion here today about allowing people to have arms.

I am just trying to imagine the Inaugural parade next year here in the District, as people have now had this ability to go arm themselves to the teeth, even people who might have purposes that are untoward in terms of our activities.

I am going to just say that this is a new type of cowboy, where they take the stage coach, they get themselves in a gun-restricted area, and let the women and children and the God-fearing people of this city stay off.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Speaker, while we ultimately are debating two different gun control bans in the District of Columbia, I am going to confine my comments to the District's ban on the acquisition or possession of a handgun. The evidence is clear that this handgun ban has not reduced crime.

Since the ban, the city's violent crime rates, particularly its murder rates, have increased. When the ban went into effect, the city's murder rate was twice the national rate. Today it is more than seven times the national rate.

Chicago is the other major American city that has a handgun ban, and it has been on the books almost as long as the District's. The Chicago ban went into effect in 1982, and within a decade murders with handguns doubled.

California banned so-called ''assault weapons'' in 1989. For the next 5 years, California's murder rate increased every year, 26 percent overall.

Of course, I am sure we are all familiar with the study that was conducted of the Federal assault weapons law, under Congress's mandate. That study found no hard evidence that the ban had any effect on crime. Among the reasons for this, the guns that were banned were rarely used in crime before the ban.

Many of our colleagues may also remember that several years ago we passed legislation prohibiting the Centers for Disease Control and Prevention from using Federal funds to pay for so-called studies designed from the outset to reach conclusions that political activists could use to promote gun control for policy purposes.

It was clear that there was a significant bias at the CDC in favor of gun control. And that bias remains. But even the CDC, in a study conducted last year, found no evidence that gun bans reduce crime. For that matter, the study found no evidence that any form of gun control reduces crime.

Around the same time, the Library of Congress studied the relationship of gun control to crime in 27 foreign countries, and it concluded there was no relationship between gun restrictions and crime.

Even though Americans buy about 5 million new guns a year, the Nation's violent crime rate has dropped every year since 1991 and it is now at a 27-year low; that is, if you base the counts on crimes reported to the police and the FBI. If you base the counts on the National Crime Victimization surveys, however, the Nation's violent crime is at a 30-year low.

Based upon crimes reported to the police and FBI, the Nation's murder rates the last few years have been lower than any time since the mid-1960s.

So, the gun control supporters' motto, ''More guns means more crime,'' is demonstrably false.

These statistics from around the country and around the world cannot be expected to alter the thinking of people who are ideologically opposed to private ownership of guns. However, ideology has been proven false by hard facts and should not dictate the policies under which the rest of us should live.

Ms. NORTON. Mr. Speaker, I include for the RECORD an article on al Qaeda seeking ties to local gangs that appeared in the Washington Times.

[From the Washington Times, Sept. 28, 2004]

AL QAEDA SEEKS TIE TO LOCAL GANGS

(By Jerry Seper)

A top al Qaeda lieutenant has met with leaders of a violent Salvadoran criminal gang with roots in Mexico and the United States—including a stronghold in the Washington area—in an effort by the terrorist network to seek help infiltrating the U.S.-Mexico border, law enforcement authorities said.

Adnan G. El Shukrijumah, a key al Qaeda cell leader for whom the U.S. government has offered a $5 million reward, was spotted in July in Honduras meeting with leaders of El Salvador's notorious Mara Salvatrucha gang, which immigration officials said has smuggled hundreds of Central and South Americans—mostly gang members—into the United States.

Although they are actively involved in alien, drug and weapons smuggling, Mara Salvatrucha members in America also have been tied to numerous killings, robberies, burglaries, carjackings, extortions, rapes and aggravated assaults—including at least seven killings in Virginia and a machete attack on a 16-year-old in Alexandria that severely mutilated his hands.

The Salvadoran gang, known to law enforcement authorities as MS–13 because many members identify themselves with tattoos of the number 13, is thought to have established a major smuggling center in Matamoros, Mexico, just south of Brownsville, Texas, from where it has arranged to bring illegal aliens from countries other than Mexico into the United States.

Authorities said al Qaeda terrorists hope to take advantage of a lack of detention space within the Department of Homeland Security that has forced immigration officials to release non-Mexican illegal aliens back into the United States, rather than return them to their home countries.

Less than 15 percent of those released appear for immigration hearings. Nearly 60,000 illegal aliens designated as other-than-Mexican, or OTMs, were detained last year along the U.S.-Mexico border.

El Shukrijumah, born in Saudi Arabia but thought to be a Yemen national, was spotted in Tegucigalpa, Honduras, in July, having crossed the border illegally from Nicaragua after a stay in Panama. U.S. authorities said al Qaeda operatives have been in Tegucigalpa planning attacks against British, Spanish and U.S. embassies.

Known to carry passports from Saudi Arabia, Trinidad, Guyana and Canada, El Shukrijumah had sought meetings with the Mara Salvatrucha gang leaders who control alien-smuggling routes through Mexico and into the United States.

El Shukrijumah, 29, who authorities said was in Canada last year looking for nuclear material for a so-called ''dirty bomb'' and reportedly has family members in Guyana, was named in a March 2003 material-witness arrest warrant by federal prosecutors in Northern Virginia, where U.S. Attorney Paul J. McNulty said he is sought in connection with potential terrorist threats against the United States.

A former southern Florida resident and pilot thought to have helped plan the September 11 attacks, El Shukrijumah was

among seven suspected al Qaeda operatives identified in May by Attorney General John Ashcroft as being involved in plans to strike new targets in the United States.

Citing ''credible intelligence from multiple sources,'' Mr. Ashcroft said at the time that El Shukrijumah posed ''a clear and present danger to America.'' In August, an FBI alert described him as ''armed and dangerous'' and a major threat to homeland security.

Earlier this month, Mr. Ashcroft confirmed that U.S. border agents and inspectors had ramped up efforts to find El Shukrijumah amid reports that the al Qaeda leader was thought to be seeking entry routes into the United States along the U.S.-Mexico border.

Mr. Ashcroft noted that increased enforcement efforts were under way in the wake of a rise of arrests of border jumpers from Afghanistan, Indonesia, Iran, Iraq, Jordan, Pakistan, the Philippines, Saudi Arabia and Syria.

Authorities said Mara Salvatrucha gang members moved into the Los Angeles area in the 1980s and developed a reputation for being organized and extremely violent. The gang since has expanded into the Washington area, including Virginia and Maryland, and into Oregon, Alaska, Texas, Nevada, Utah, Oklahoma, Illinois, Michigan, New York, Georgia and Florida.

More than 3,000 Mara Salvatrucha gang members are thought to be in the Washington area, with a major operation in Northern Virginia. Other gang centers, authorities said, include Montgomery and Prince George's counties and the Hispanic neighborhoods of Washington.

Mr. McNulty, whose office has prosecuted Mara Salvatrucha gang members, has described the organization as the ''gang of greatest interest'' to law enforcement authorities. He said gang members are recruited predominantly from Hispanic communities and typically among juveniles, some as young as 13. Recruits are ''jumped'' into the gang by being beaten by members while others count to 13, he said.

Gang rules, he said, are indoctrinated into new recruits and ruthlessly enforced. Those who cooperate with law enforcement are given the ''green light,'' he said, meaning that the gang had approved their killing.

In March, the Los Angeles City Attorney's Office filed an injunction against Mara Salvatrucha, charging that the gang's criminal activity constituted a ''public nuisance'' based on the number of killings, robberies and drug crimes. The injunction requires gang members, under public nuisance statutes, to follow curfew rules and regulations and prohibits them from associating, driving or appearing together in designated areas of the city.

Ms. NORTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS), a member of the full committee.

Mr. DAVIS of Illinois. Mr. Speaker, a few minutes ago my colleague from New York said that this was absolutely crazy, and I will simply say that it is about as crazy as it can get without being absolute.

Every bit of information that we have available to us lets us know that gun violence is unnecessarily killing people. In 2001, 29,000 people in this country died from gun violence. Fifty percent of all the African American youngsters between the ages of 15 and 19 who die, die from gun violence.

We talk about the Constitution. Please be reminded that when this Constitution was enacted, my ancestors were counted as three-fifths of a person and women did not have the right to vote. The Constitution was created at a time when there was need for what it created itself for. This is a different era, a different time.

If you want to help the people of D.C., give the gentlewoman from the District of Columbia (Ms. NORTON) a vote on the floor of this House. Give them two Senators who can vote in the other Chamber. That is how you help the people in D.C.

Mr. SOUDER. Mr. Speaker, I include for the RECORD a series of stories of individuals who were terrified but defended themselves and could have been prosecuted under the D.C. law.

I will also include for the RECORD, what would the District of Columbia's gun laws look like after this law passes?

WHAT WOULD THE DISTRICT OF COLUMBIA'S GUN LAWS LOOK LIKE AFTER H.R. 3193?

Even if H.R. 3193 were signed into law in its present form, it would leave in place an extensive set of laws governing possession, sale and use of guns. District laws would still be far more restrictive than the laws of most states:

It would still be illegal to carry firearms outside one's own property, either openly or concealed. Violations would still be punishable by a fine of up to $1000 or imprisonment for not moire than one year for a first offense, and up to $10,000 and 10 years' imprisonment, or both, for a second offense or for any violation by a convicted felon. All penalties are doubled for illegal carry in a ''gun free zone'' within 1000 feet of a school, day care center, college, or various youth recreation facilities such as swimming pools and video arcades.

Possession or use of a firearm while committing a crime of violence would remain punishable by up to 30 years in prison, with a minimum of 5 years served before parole or probation.

Handgun possession would remain illegal for drug addicts, convicted felons, and persons convicted of various public order offenses such as vagrancy.

It would still be illegal to possess machineguns, sawed-off shotguns or short-barreled rifles. The definition of ''sawed-off shotgun'' is more restrictive than federal law.

It would still be illegal to manufacture firearms or ammunition in the District.

Vehicles used to illegally transport firearms would still be subject to seizure and forfeiture.

All these provisions are in addition to federal laws that extensively regulate commerce in firearms, and which provide strict penalties for gun possession by convicted felons and other ''prohibited persons'' and for use of firearms in violent crimes.

H.R. 3193 focuses entirely on restoring fundamental self-defense rights to honest citizens, by repealing the handgun ban, gun registration laws, and laws on carry and storage in the home that prevent people from exercising those rights.

SELF-DEFENSE STORIES

In each of these stories, D.C. residents used a handgun that was banned under D.C. law. However, if they had not used their banned weapon to defend themselves against crime, it is quite possible that many of them would not be alive today.

D.C. law should not make it a criminal offense to possess a firearm for self defense in one's own home or business. H.R. 3193 would decriminalize the ownership of handguns and restore 2nd Amendment rights to the residents of D.C.

SOURCE: WASHINGTON POST, WASHINGTON, DC, SEPT. 18, 2004

(Letter to the Editor)

It was shortly after midnight when my wife and I were awakened by pounding at our front door. When I went to the window, I saw a large man trying to kick down our door. I warned him to stop, but he started swearing, insisting that I give him money. He then started kicking the door again.

I called 911 and was put on hold. I waited for about 30 seconds and then realized that the man at my front door probably would be inside before the 911 operator answered. Despite the D.C. gun laws, I have a gun for just such a situation.

I took the gun from my closet, went to the window and pointed it at the man. I warned him that I would shoot if he came through my door. He stopped kicking and ran away.

Every few months, people are shot and killed within a block or two of our home. It is absurd for Washington to outlaw guns; it guarantees that only outlaws will have guns.

Citizens should be allowed to protect themselves, and, as a homicide detective once told me when I confessed to keeping a gun, ''I would rather be judged by 12 of my peers than carried out by six of my friends.''

I thank God that Congress has some power over the District's laws.

TONY SNESKO, *Washington*.

SOURCE: WASHINGTON TIMES, WASHINGTON, DC, 12/14/94

Rebecca Griffin awoke to the screams of her daughter, who was being bound and gagged by two kidnappers in her Washington, D.C., home. She confronted the men, one of whom was carrying a knife, and brought the attack to a quick halt when she was bale to break free and retrieve a .32-cal. revolver from the basement, shooting the knife-weilder four times. The other suspect fled. Griffin and one daughter were slashed during the attack. Some news accounts made no mention that the handgun that saved the Griffins is illegal in the District. (American Rifleman: March 1995)

SOURCE: WASHINGTON TIMES, WASHINGTON, DC, 5/5/93

In Washington, where armed criminals run rampant but honest citizens are denied the right to own handguns for personal protection, one city resident stood up for himself when he shot a man who tried to rob him in his home. The homeowner had given the thug a bucket of water, but when the bucket was returned, the good samaritan found himself looking down the barrel of a pistol. Raising his hands as ordered, he grabbed a pistol he had secreted on a shelf and shot the would-be robber. Police confiscated his gun, but the district commander said, ''If the circumstances are as they seem, I don't think justice will be served if they charge this guy.'' (American Rifleman: July 1993)

SOURCE: WASHINGTON POST, WASHINGTON, DC, 3/19/88

Stabbed several times in a robbery attempt at a Washington, D.C., market, employee Cha Ma grabbed a gun and shot his assailant, who fled. A wounded suspect was arrest a short distance away and charged with assault with intent to rob while armed. Police said no charges had been filed against Ma. (American Rifleman: August 1988)

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, as an original cosponsor of the District of Columbia Personal Protection Act, I

urge my colleagues to join me and the citizens of Washington, D.C. to free them from a failed 27-year experiment with gun control policy.

One thing that we all do know for sure is that criminals have guns, and criminals are the people that are being described by folks on the other side of the aisle in this case. Criminals have guns, but hardworking, honest, law-abiding citizens are not allowed to have guns in the District of Columbia to defend themselves.

The statistics clearly show that the District's firearm restrictions have done nothing to combat crime, while crippling the right of every Washington, D.C. citizen to protect their homes and their families.

□ 1400

I hail from a State that respects the fundamental, individual rights to own firearms granted to us by the second amendment of the Constitution; but in the District of Columbia, it is a world upside down. Law-abiding citizens are left defenseless to face criminals. They live behind locked doors, and they walk city streets with one eye on their children and their other eye on the lookout for armed criminals.

I, and many more, realize that gun bans do not work against criminals, but they do endanger law-abiding citizens. This is no more evident than in this city which, in the past 2 decades, has become known as the murder capital of the United States.

With that, I urge my colleagues to support H.R. 3193 and allow the people of Washington, D.C. the right they are guaranteed, and that is to defend themselves and their families.

Ms. NORTON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I am proud to join today with my colleague, the gentlewoman from the neighboring congressional district, the District of Columbia (Ms. NORTON), in opposing this bill.

The District of Columbia's gun laws have already been upheld by the Federal courts as constitutional, so the second amendment argument in this context is just a bogus one.

This bill represents the height of arrogance. Members of this body have got to stop treating the District of Columbia and the people of the District of Columbia as their personal playground where they impose their will on people who did not elect them. The people of the District of Columbia elected the gentlewoman from the District of Columbia (Ms. NORTON). They elected the Mayor. They elected the D.C. Council. They elected the people who put these laws into effect.

This legislation is nothing more than a contemptible effort to placate certain special interests at the expense of the people of the District of Columbia.

We talk about a world upside down. The House leadership have prohibited this body from taking a vote on extending the ban on military-style assault weapons; and at the same time today we rush through a bill put at the top of the schedule to impose our will against the wishes of the people of the District of Columbia.

Mr. Speaker, I will insert for the RECORD a letter from the representatives of the business community of Washington, D.C., the Washington Board of Trade, opposing this legislation at this time.

SEPTEMBER 20, 2004.

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives.*
Hon. TOM DELAY,
*Majority Leader, House of Representatives.*

DEAR SPEAKER HASTERT AND MAJORITY LEADER DELAY: As the unified voice of business in Washington, DC, we are deeply troubled by efforts within the House Republican caucus to repeal the gun safety laws that exist for the protection of the families, workers and tourists of the District of Columbia.

If passed by Congress into law, The District of Columbia Personal Protection Act (H.R. 3193) would eliminate the ban on handguns in the District of Columbia, eliminate the ban on semiautomatic weapons, eliminate criminal penalties for possession of unregistered firearms and even eliminate registration requirements for ammunition and other firearms. The rollback of these fundamental public safety laws would have a significant, negative effect on the District's business climate, and could undermine the foundations of our city's economy and quality of life.

The leaders of this city are working hard every day to sustain the progress of recent years by making this an even more attractive destination for tourism, redevelopment and relocation. We have had to overcome the lingering perception that D.C. neighborhoods are especially unsafe, and that our city is uniquely susceptible to terrorist attack in the aftermath of 9/11.

To those ends, we have been very successful. Last year, more than six million people visited Downtown Washington. Large, international retailers have returned to the District, making this a regional shopping destination once again. The District's restaurant scene has never been more vibrant, as nearly 30 restaurants have opened in the downtown area since 1999 alone, while the District's hotel market has nearly returned to its pre-9/11 performance. Finally, the performance of our city's office market is the best in the nation—at this time, we are the only major downtown market in the United States with a vacancy rate under ten percent.

However, much of our progress could be undone by passage of this bill into law. This would fuel the harmful perception that the District is a haven for weapons that have no place in our society, and that visitors, employers and new residents should come here at their own risk. Given the continued efforts of the business community to sustain our economic recovery, and the extraordinary steps of our state and local governments to safeguard against terrorist attack, the District of Columbia Personal Protection Act is the last thing our city needs right now. We intend to pursue vigorous efforts to see this bill defeated, and we hope that you will not allow this bill to reach the floor of the House of Representatives for a vote.

Thank you in advance for your consideration.

Sincerely,

Robert A. Peck, President, Greater Washington Board of Trade.

Robert A. Malson, President, District of Columbia Hospital Association.

John Childers, President and CEO, Consortium of Universities of the Washington Metropolitan Area.

Barbara R. Lang, President and CEO, DC Chamber of Commerce.

William A. Hanbury, President and CEO, Washington, DC Convention and Tourism Corporation.

Lynne Breaux, Executive Director, Restaurant Association Metropolitan Washington.

Reba Pittman Walker, President, Hotel Association of Washington, DC.

Mr. SOUDER. Mr. Speaker, I reserve the right to close.

Ms. NORTON. Mr. Speaker, I yield 45 seconds to the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Mr. Speaker, imagine living in a world where you believe owning weapons is the only way to feel safe, so you decide semiautomatic weapons which are made easily available to you are the weapon of your choice. But then you decide to buy handguns so you can keep that gun concealed on your body when you go to the store, or on your pillow at night, because you believe that the enemy could be lurking anywhere. You figure while you are beefing up your home artillery, you should also pick up some cop-killer bullets because you never know when your enemy might have a bullet-proof vest on.

I do not know about you folks, but this is my idea of a nightmare: a world made less safe, not safer, by this legislation.

This bill not only ignores D.C. voters' choice to ban assault weapons, it also makes certain that the city council cannot enact any further gun-owning restrictions.

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

In closing, I would just like to give the Members a sense of what this bill would do. If it passes, it would allow someone to carry a 50-caliber sniper rifle in one hand, armor-piercing ammunition, and incendiary combination ammunition in the other, and go into our Metro, so long as he, and let me read this to my colleagues, Mr. Speaker, as long as he was on his way to an informal target practice or a dog obedience training class.

Mr. Speaker, this is sheer lunacy. Save yourself from embarrassment. Save our children. Save our Nation. Save this Congress from looking like idiots and fools in the middle of an orange alert by bringing more guns into the Nation's capital. Vote ''no'' on H.R. 3193.

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

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

In closing, I would just like to say that the citizens of D.C. have a right to defend themselves, a constitutional right to defend themselves. This has

been the murder capital of the United States for 14 of the last 15 years, currently is eight times the national average. American citizens have a right to defend themselves.

The only people who have a right to guns right now are criminals. They will still be punished. Anybody who violates the law will still be punished. Anybody who uses the type of weapons we have heard described away from their property are still going to be punished.

The question is, can law-abiding citizens defend themselves in their homes and in their businesses?

Mr. Speaker, I will insert for the RECORD at this time a list of the 229 cosponsors of this bill, including 44 Democratic sponsors.

| Office | State | Staff contact | First contact | R or D | Govt. reform |
|---|---|---|---|---|---|
| Tim Johnson | IL | Erik Woehrmann | 3-Sep | R | |
| Jim DeMint | SC | Kara Borie | 3-Sep | R | |
| Joe Wilson | SC | Laurin Groover | 3-Sep | R | |
| Jo Ann Davis | VA | Jonathan Kidwell | 4-Sep | R | X |
| Ed Schrock | VA | Cheryl Clark | 4-Sep | R | X |
| Dan Burton | IN | Mary Valentino | 4-Sep | R | X |
| Pete Sessions | TX | Tucker Anderson | 5-Sep | R | |
| Jeb Hensarling | TX | Derek Baker | 5-Sep | R | |
| John Carter | TX | Ryan Henery | 5-Sep | R | X |
| Kevin Brady | TX | Gene Irisari | 5-Sep | R | |
| Sam Johnson | TX | Spencer Ritchie | 9-Sep | R | |
| Michael Burgess | TX | Stacey DeFino | 9-Sep | R | |
| Dennis Rehberg | MT | Jay Martin | 9-Sep | R | |
| Lamar Smith | TX | Allison Beach | 9-Sep | R | |
| Randy Neugebauer | TX | Peter Andres | 9-Sep | R | |
| David Vitter | LA | Greg Facchiano | 9-Sep | R | |
| Ron Paul | TX | Anamarie Pratt | 10-Sep | R | |
| Terry Everett | AL | Jeff Rabren | 10-Sep | R | |
| Chris Cannon | UT | Trevor Kolego | 10-Sep | R | X |
| Butch Otter | ID | Brandon Heiner | 10-Sep | R | |
| Adam Putnam | FL | Casey Welch | 11-Sep | R | X |
| Todd Platts | PA | Nate Sloan | 11-Sep | R | X |
| Joe Barton | TX | Joby Fortson | 11-Sep | R | |
| Candice Miller | MI | David Hemenway | 12-Sep | R | X |
| Virgil Goode | VA | Ward Anderson | 12-Sep | R | |
| Phil Gingrey | GA | Jonathan Osborne | 16-Sep | R | |
| Barbara Cubin | WY | Brandi Ladd | 16-Sep | R | |
| Ron Lewis | KY | Josh Nacey | 17-Sep | R | X |
| John Sullivan | OK | John Rainbolt | 17-Sep | R | X |
| Spencer Bachus | AL | Johanna Cole | 22-Sep | R | |
| Marsha Blackburn | TN | Mike Platt | 23-Sep | R | X |
| John Duncan | TN | Patra Stephen | 23-Sep | R | X |
| Bill Janklow | SD | Marshall Damgard | 24-Sep | R | X |
| Bob Ney | OH | Greg Mesack | 24-Sep | R | |
| Nathan Deal | GA | Todd Smith | 24-Sep | R | X |
| Ernest Istook | OK | John Albaugh | 24-Sep | R | |
| John Mica | FL | Gary Burns | 24-Sep | R | X |
| Pat Toomey | PA | Brain Wild | 25-Sep | R | |
| Bob Goodlatte | VA | Branden Ritchie | 25-Sep | R | |
| John Doolittle | CA | Kara Dougherty | 26-Sep | R | |
| Roscoe Bartlett | MD | Chris Tontz | 26-Sep | R | |
| Mac Collins | GA | Shawn Friesen | 26-Sep | R | |
| Mike Rogers | AL | Amy Albro | 26-Sep | R | |
| Jeb Bradley | NH | Brien Miller | 29-Sep | R | |
| Wally Herger | CA | Dan MacLean | 29-Sep | R | |
| Thaddeus McCotter | MI | Patrick Rothwell | 29-Sep | R | |
| Steve King | IA | Brenna Findley | 29-Sep | R | |
| Cass Ballenger | NC | Tim Linker | 29-Sep | R | |
| Roger Wicker | MS | Susan Sweat | 29-Sep | R | |
| Duke Cunningham | CA | Katie Hanvey | 29-Sep | R | |
| Marilyn Musgrave | CO | Jacob Leis | 29-Sep | R | |
| Ginny Brown-Waite | FL | Bob Honold | 30-Sep | R | |
| Robin Hayes | NC | Jon Causey | 30-Sep | R | |
| Sam Graves | MO | Paul Sass | 30-Sep | R | |
| Trent Franks | AZ | John Graves | 30-Sep | R | |
| Tom Feeney | FL | Ryan Visco | 30-Sep | R | |
| Jim Gibbons | NV | Dan Waters | 30-Sep | R | |
| Chip Pickering | MS | Mike Hurst | 30-Sep | R | |
| Chris Chocola | IN | Rich Dunn | 30-Sep | R | |
| Steve Pearce | NM | Matt Meagher | 30-Sep | R | |
| Gresham Barrett | SC | Greg Thomas | 30-Sep | R | |
| Eric Cantor | VA | Bill Doblow | 30-Sep | R | |
| Jeff Miller | FL | Steve Holton | 30-Sep | R | |
| John Hostettler | IN | Erin Berry | 1-Oct | R | |
| Duncan Hunter | CA | Lorissa Bounds | 1-Oct | R | |
| Todd Akin | MO | Franz Kohler | 1-Oct | R | |
| Jo Bonner | AL | | 1-Oct | R | |
| Henry Brown | SC | Joe Gleboki | 2-Oct | R | |
| John Boozman | AR | Brian Bullard | 2-Oct | R | |
| John Culberson | TX | Ellie Essalih | 3-Oct | R | |
| Roy Blunt | MO | Amy Field | 3-Oct | R | |
| Johnny Isakson | GA | Tucker Shumack | 6-Oct | R | |
| John Kline | MN | Jim McGuire | 6-Oct | R | |
| Mike Simpson | ID | John Revier | 7-Oct | R | |
| Rick Renzi | AZ | Joanne Keene | 7-Oct | R | |
| Don Young | AK | Justin Sprinzen | 7-Oct | R | |
| Todd Tiahrt | KS | AmyClair Brusch | 8-Oct | R | |
| Bill Shuster | PA | Alex Mistri | 8-Oct | R | |
| Mike Pence | IN | Trip Radtke | 8-Oct | R | |
| Jack Kingston | GA | Stephen Anderson | 9-Oct | R | |
| Donald Manzullo | IL | Conor Brown | 9-Oct | R | |
| Philip Crane | IL | Andrew Wankum | 9-Oct | R | |
| Charlie Norwood | GA | Jason Paluskiewiz | 10-Oct | R | |
| Jim Ryun | KA | Marcus Friesen | 10-Oct | R | |
| Rob Bishop | UT | Miriam Harmer | 14-Oct | R | |
| Richard Baker | LA | Scott Kirkpatrick | 14-Oct | R | |
| Joseph Pitts | PA | Cindy Diggs | 15-Oct | R | |
| Lee Terry | NE | Robert Stein | 15-Oct | R | |
| Mike Rogers | MI | Mike Ward | 15-Oct | R | |
| Zach Wamp | TN | Alex Richard | 17-Oct | R | |
| Robert Aderholt | AL | Brian Johnston | 20-Oct | R | |
| Jerry Weller | IL | Troy Babson | 20-Oct | R | |
| Jim McCrery | LA | Bob Brooks | 20-Oct | R | |
| Bob Beauprez | CO | Bruce Miller | 21-Oct | R | |
| Randy Forbes | VA | Andy Halataei | 21-Oct | R | |
| Henry Bonilla | TX | Patrick Anderson | 21-Oct | R | |
| Thomas Petri | WI | Elizabeth Foy | 21-Oct | R | |
| Melissa Hart | PA | William Rys | 23-Oct | R | |
| Billy Tauzin | LA | James White | 27-Oct | R | |
| Steve Buyer | IN | Myrna Dugan | 28-Oct | R | |
| Deborah Pryce | OH | Peter Freeman | 29-Oct | R | |
| Fred Upton | MI | Charles Yessiaian | 29-Oct | R | |
| Thomas Reynolds | NY | Tina Mufford | 30-Oct | R | |

| Office | State | Staff contact | First contact | R or D | Govt. reform |
|---|---|---|---|---|---|
| William Jenkins | TN | Megan Caldwell | 30-Oct | R | |
| Steve Chabot | OH | Kevin Fitzpatrick | 31-Oct | R | |
| Wiliam Thornberry | TX | Trey Bahm | 3-Nov | R | |
| Cliff Stearns | FL | Alan Hill | 3-Nov | R | |
| Scott Garrett | NJ | Jay Fahrer | 5-Nov | R | |
| Ken Calvert | CA | Deena Contreras | 7-Nov | R | |
| Phil English | PA | Christine Rogala | 12-Nov | R | |
| Devin Nunes | CA | Kedrin Simms | 18-Nov | R | |
| Max Burns | GA | Zach Procter | 19-Nov | R | |
| Tom Tancredo | CO | Mac Zimmerman | 21-Nov | R | |
| Jim Nussle | IA | Luke | 24-Nov | R | |
| Tom Cole | OK | Chris Arnold | 1-Dec | R | |
| Rick Keller | FL | Mike Shutley | 9-Jan | R | |
| Scott McInnis | CO | Jack Allen | 22-Jan | R | |
| Walter Jones | NC | Anne Cassity | 26-Jan | R | |
| Sue Myrick | NC | Matt Priest | 28-Jan | R | |
| John Peterson | PA | Angela Ambrose | 29-Jan | R | |
| Dana Rohrabacher | CA | Meredith Curcio | 29-Jan | R | |
| Mario Diaz-Balart | FL | Charles Cooper | 29-Jan | R | |
| Paul Ryan | WI | Ryan | 4-Feb | R | |
| Joel Hefley | CO | Larry Hoja | 9-Feb | R | |
| Nick Smith | MI | Alan Knapp | 26-Feb | R | |
| Frank Lucas | OK | Marna Harris | 26-Feb | R | |
| Darrell Issa | CA | Josh Brown | 9-Mar | R | |
| Gary G. Miller | CA | Sandra | 11-Mar | R | |
| Jeff Flake | AZ | Margaret Klessig | 12-Mar | R | |
| Tom Latham | IA | Kevin Berents | 22-Mar | R | |
| Kenny Hulshof | MO | Shaun Duignan | 25-Mar | R | |
| Nicholas Lampson | TX | Aaron Schmidt | 31-Mar | R | |
| Gary Miller | CA | John Rothrock | 1-Apr | R | |
| Curt Weldon | PA | Mary | 5-Apr | R | |
| George Radanovich | CA | Emma | 23-Apr | R | |
| Sherwood Boehlert | NY | Sam | 23-Apr | R | |
| Charles Taylor | NC | Adam Shepard | 26-Apr | R | |
| Dave Weldon | FL | Eric | 26-Apr | R | |
| Jo Ann Emerson | MO | Tony Eberhard | 28-Apr | R | |
| Greg Walden | OR | Dallas | 28-Apr | R | |
| Shelley M. Capito | WV | Adam | 4-May | R | |
| Richard Pombo | CA | Josh Rolph | 5-May | R | |
| Harold Rogers | KY | Ben | 12-May | R | |
| Katherine Harris | FL | Stuart Mallory | 17-May | R | X |
| Dave Camp | MI | Chris Wenk | 17-May | R | |
| Jim Gerlach | PA | William Tighe | 19-May | R | |
| Gil Gutknecht | MN | Ryan McLaughlin | 19-May | R | |
| Mark Kennedy | MN | Tim Morrison | 1-Jun | R | |
| Steven LaTourette | OH | Ryan | 2-Jun | R | X |
| Anne Northup | KY | Brooken Smith | 4-Jun | R | |
| Richard Burr | NC | Ricky Welborn | 4-Jun | R | |
| John Shimkus | IL | Bill | 9-Jun | R | |
| Howard McKeon | CA | Brandi | 9-Jun | R | |
| George Nethercutt | WA | Rob | 9-Jun | R | |
| Don Sherwood | PA | John Ormasa | 9-Jun | R | |
| Doc Hastings | WA | Jenny Gorski | 9-Jun | R | |
| John McHugh | NY | Melanie Turpin | 9-Jun | R | X |
| Jerry Moran | KS | Jenny Guttery | 14-Jun | R | |
| Ed Whitfield | KY | Benjamin Beaton | 15-Jun | R | |
| Charles Bass | NH | Jennifer Warren | 16-Jun | R | |
| Tom DeLay | TX | Elliot Burke | 16-Jun | R | |
| John Linder | GA | Mike Swansburg | 16-Jun | R | |
| John Boehner | OH | Gary | 17-Jun | R | |
| John Sweeney | NY | Jim Christopolous | 17-Jun | R | |
| Kay Granger | TX | Darin | 17-Jun | R | |
| Patrick Tiberi | OH | Adam (LD) | 17-Jun | R | X |
| Ed Royce | CA | Darin Schrader | 17-Jun | R | |
| Ander Crenshaw | FL | Francis | 17-Jun | R | |
| Paul Gillmor | OH | Andrew Beck | 18-Jun | R | |
| Joseph Knollenberg | MI | Kelly Haskin | 20-Jun | R | |
| Michael Bilirakis | FL | Jerry White | 20-Jun | R | |
| Jerry Lewis | CA | Arlene | 20-Jun | R | |
| Lincoln Diaz-Balart | FL | Ceaser Gonzo | 22-Jun | R | |
| John Shadegg | AZ | Stephen Prather | 22-Jun | R | |
| Elton Gallegly | CA | Michelle M. | 22-Jun | R | |
| Ileana Ros-Lehtinen | FL | | 6-Jul | R | X |
| Howard Coble | NC | Anna Sagley | 15-Jul | R | |
| Jim Kolbe | AZ | | | R | |
| Judy Biggert | IL | | | R | |
| Micheal Turner | OH | | 8-Jul | R | X |
| Michael Oxley | OH | | 21-Jul | R | |
| Peter Hoekstra | MI | | 21-Jul | R | |
| Rob Portman | OH | | | R | |
| Ralph Regula | OH | | | R | |

Mrs. CHRISTENSEN. Mr. Speaker, two weeks ago this House blocked consideration of legislation sponsored by my colleague from New York, Mrs. MCCARTHY, to extend the ban on the manufacture, transfer, or possession of semiautomatic assault weapons. The assault weapons ban is supported by the International Brotherhood of Police Officers, National Association of Police Organizations, American Nurses Association, American Psychiatric Association, American Public Health Association, American Academy of Pediatrics, Urban League, National Education Association, United Federation of Teachers, Children's Defense Fund, NAACP, Anti-Defamation League, and the National Coalition Against Domestic Violence.

The House instead today, voted to enact legislation which was introduced by a member from Indiana to get rid of the ban on firearms in the District of Columbia, against the wishes of elected Mayor, City Council, and U.S. Delegate to Congress. Federal courts have upheld the constitutionality of the DC ban.

These actions by this distinguished body distress me greatly because it was just a day ago that a 4-year-old boy was shot to death and a 7-year-old boy was injured in a shooting Monday night at the Kirwan Terrace housing community on St. Thomas in my District.

This heinous act has outraged my community which is seeking any and all assistance to prevent this kind of despicable crime, which apparently was perpetrated through the use of a high-powered firearm, from ever occurring again.

Mr. Speaker, gun violence is reaching epidemic proportions in all of our communities and this body should be doing all we can to reduce the number of guns that are available, not increasing them. I urge all my colleagues to support the Meehan discharge petition, H. Res. 769, to allow a vote on Representative CAROLYN MCCARTHY's Assault Weapons Ban and Law Enforcement Protection Act, H.R. 2038.

We have a responsibility as leaders of our communities to do all that we can to keep our citizens safe from the ravages of crime—particularly gun violence, such as what tragically befell four year old Leon Bowery. May he rest in peace.

Mrs. MALONEY. Mr. Speaker, I rise today in strong opposition to this legislation.

Nearly thirty years ago, handguns were banned in Washington, D.C. by the will of the people. Yet here we are, once again, dictating to the citizens of the District of Columbia the laws that govern them when their own elected delegate will not even have the opportunity to vote on passage of this bill. Like any metropolitan area, Washington, D.C. has crime,

much of which is because of guns. Therefore, I do not understand why the Majority thinks the solution to that problem is allowing more guns on the streets of this city. We should be reducing crime by preventing gun violence and by ensuring that there are enough policemen who have the necessary resources to do their jobs. At a time when citizens from across the nation have returned to D.C., despite their security concerns, to enjoy its attractions, we should not be passing legislation that sends the message that the city is unsafe.

I urge my colleagues to vote ''no'' on this legislation.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 3193, the District of Columbia Personal Protection Act. This is a good bill. It is a sensible bill. This bill allows the citizens of the District of Columbia the right to protect their home and their families.

For almost three decades now, the District of Columbia has had some of the most extensive gun control laws in the nation. Despite this, the District is not only known as our nation's capital, but also the murder capital of the world. This is shameful.

Mr. Speaker, I stand before the full House to reiterate my strong support for the Second Amendment of the Constitution. I believe that all Americans have the right to own firearms. The citizens of Washington, D.C. should have the same rights as most other Americans.

Mr. Speaker, I urge my colleagues to vote for this sensible legislation and allow District of Columbia residents the means to protect themselves.

Ms. McCARTHY of Missouri. I rise today in opposition to H.R. 3193, the District of Columbia Personal Protection Act, a bill that interferes with the District's gun registration law and puts semiautomatic weapons back in the hands of terrorists and criminals. Just two weeks ago the majority of this chamber allowed the national assault weapons ban to expire. Now the District of Columbia's gun regulations are in danger of repeal. As D.C. Mayor Anthony Williams noted in today's Washington Post, ''The District knows what firearms regulations work best for its residents.'' As such, in 1975 District residents enacted the Firearms Control Regulations Act to protect residents of and visitors to our nation's capital. As a result the District is on pace to post its lowest homicide rate in 20 years.

The passage of this legislation would mean that as parts of this city remain under a code orange terrorism alert, it would become legal for an AK–47 or AR–15 to be carried down the street in the name of personal safety, making it more difficult for our federal and local law enforcement officers to do their jobs.

The current D.C. law works. The District's gun law does not prevent citizens in good standing from owning guns for legitimate needs. Since 1976, more than 100,000 firearms have been registered with District Police—most of these as rifles and shotguns for hunting purposes. I urge my colleagues to join me in opposing this unnecessary legislation that not only does nothing to keep the streets of our nation's capital safer, but also would make it easier for terrorists to strike at the seat of our government.

Mr. STARK. Mr. Speaker, I rise in outraged opposition to H.R. 3193, the so-called District of Columbia Personal Protection Act. This bill strips away gun safety laws passed by the City Council here in our Nation's capital. It allows people in DC to buy assault weapons and use ''cop-killer'' bullets. It overturns laws that ban criminals from owning guns.

Mr. Speaker, the internal contradictions and extremism of this bill say a lot about the Republican majority's desperation to please the National Rifle Association shortly before the election. In order to chock up a vote for the NRA scorecard, Republicans play lip service to States' rights and local control while nullifying laws passed by the elected leaders of DC.

Do the people of Washington, DC want their gun laws repealed? Not on you life.

Residents of DC will be less safe, but who cares say the Republicans. They've got to reward the NRA for millions in campaign contributions dumped into their reelection coffers. They have no shame.

Consider the parents of the 16 DC children killed by guns this year. They have to relive their nightmare every day and now the tragedy of more children murdered by guns and more parents mourning as assault weapons again rule the streets. Their wishes are being dishonored and stripped away today. Their calls for safe streets ignored. Their hope for safer neighborhoods—gone. All capriciously taken away by Republicans and the NRA.

I bet these parents, like any other parent in any community across this Nation, wish they had the same grip over their local gun laws as the National Rifle Association.

The 230 cosponsors of this legislation work in a building where guns are banned. Every visitor has to pass through a metal detector. Millions have been spent on Homeland Security upgrades in and around the Capitol. Yet, they foolishly think the Global War on Terror stops at the banks of the Potomac. Or maybe they figure they're safe behind the barricades and armed police so why worry about gun laws that protect other people who life in this city?

If you're worried about your safety in some of the most dangerous neighborhoods just blocks from the Capitol, here's the Republicans' message to you: buy an AK–47 and pray that you're a better shot than the other guy. Never mind studies published in the New England Journal of Medicine that conclude that guns kept in the home for self-protection triple the risk of homicide, and are 43 times more likely to kill a family member or friend than an intruder.

Any member of this body who feels safer because of the extensive gun control here in the Capitol Building has an obligation to vote against this bill so that the people of DC have the same right to control their personal safety. If you vote for a firearms free-for-all in Washington, DC, then you should have the decency to introduce legislation allowing assault weapons right here, in your own workplace, in this Capitol. Even Republicans know that would be wrong, but if that's really where you stand, then I stand with the citizens of DC who know what's best. Do what they'd do. Vote down this bill.

Mr. BARRETT of South Carolina. Mr. Speaker, as a father of three teenage children, I understand the importance of keeping our streets free of violence. And as a gun owner and sportsman, I also understand the importance of the rights afforded to Americans by the second amendment. The District of Columbia Personal Protection Act protects our citizens while also protecting the constitutional rights of the citizens of the District of Columbia to own rifles, shotguns, and handguns.

H.R. 3193 would not affect any law directed at true criminal conduct. As a matter of fact it would leave in place strict penalties for gun possession by criminals and for violent crime committed with guns. I firmly believe banning a firearm is not the answer to preventing crime. Interestingly enough, the District of Columbia has some of the most restrictive gun laws in our Nation. Yet, at the same time, recent FBI figures show that the District has regained its former title as the murder capital of the United States.

As a matter of fact, according to U.S. Justice Department figures, Washington, DC, has been the ''murder capital of the country'' for 14 of the last 15 years. And currently, the DC homicide rate is nearly five times greater than the national average. This escalating murder rate began only after the DC Council deprived law-abiding citizens of the right to defend themselves and their families by effectively banning handguns and other firearms in 1976. I believe it is only by strictly enforcing laws to prosecute those who misuse a gun in the commission of a crime that we can ensure our families remain safe from those who would prey on the innocent, and that the rights of law-abiding Americans are protected.

I urge my colleagues to support H.R. 3193 and allow law abiding people to use guns to protect their homes and families, essentially stating that DC citizens would enjoy the same self-defense rights as residents of the 50 States.

Mr. OTTER. Mr. Speaker, I always try to apply a personal ''Three C'' test to questions of public policy. First I ask myself whether it's constitutional. Then I consider whether it's something my constituents want. Finally, I examine my own conscience.

The District of Columbia Personal Protection Act passes that test with flying colors. What's more, the existing policy of denying basic second amendment rights to the people of the District of Columbia not only fails the ''Three C'' test, it also is offensive to the very principles on which our nation was founded.

The second amendment clearly states that ''the right of the people to keep and bear Arms, shall not be infringed.'' It does not say the right to keep and bear arms applies only to people who live within the jurisdiction of a State. It does not say the right to keep and bear arms is subject to the wrong-headed whims of social engineers. And it does not say the right to keep and bear arms may be infringed in misguided response to violent crime.

The second amendment was designed to empower the people—the source of American sovereignty—to protect themselves, their families, and their homes. Instead, unreasonable restrictions and outright prohibitions on firearms in the District of Columbia have emboldened criminals to prey on innocent and unarmed citizens. The result is that America's Capital City has been consistently and needlessly turned into America's Murder Capital.

The record is clear: Twenty-eight years of keeping firearms out of the hands of law-abiding citizens in the District of Columbia has contributed to the most pervasive culture of violent crime in America. The American people are most secure and most confident in their personal safety when their constitutional rights are protected.

Mr. Speaker, just as it's my right as a citizen to protect my home and family, it is my responsibility as a Member of Congress to protect our citizens' constitutional rights. Let's focus our law enforcement efforts on preventing and punishing real violent crimes rather than denying second amendment rights to honest Americans—whether they're from Idaho or the District of Columbia.

Mr. LANGEVIN. Mr. Speaker, today I rise in strong opposition to H.R. 3193, legislation that would repeal Washington, DC's, self-enacted gun ban. For nearly 30 years, this ban has protected the citizens of Washington and the city's 20 million annual tourists. Over the last year, D.C. homicides are down 24 percent, and there have been 55 percent fewer murders since 1994. While the ban has not been perfect, there is no excuse for Congress making it easier for murderers and terrorists to get their hands on legal assault weapons. More guns will lead to more murders.

If enacted, H.R. 3193 would repeal the District's ban on handguns and semiautomatic firearms, including assault weapons, and end criminal penalties for failure to register a gun. This ban was enacted by an elected mayor and city council in 1976 and has never been eroded by legislation or court challenge. The House is now attempting to change the will of elected D.C. officials, but Washington does not even have a voting representative to voice the will of the people most affected by this legislation.

The dangers inherent in this bill are complicated by the recent expiration of the assault weapons ban. Should this bill become law, someone could purchase an Uzi or AK–47 and legally keep it at his or her home within sight of the White House, Capitol Building, or Supreme Court. During this time of unprecedented security, weakening gun laws will only make the job of law enforcement officers more difficult and more dangerous.

Unfortunately, the rule prevents all amendments, including those to ban assault weapons and cop-killer bullets. Without these lifesaving provisions, it is only a matter of time until a member of he Metropolitan Police Department, U.S. Capitol Police, Secret Service, or other law enforcement officer is outgunned with a legal assault weapon.

Washington, DC, has the right to determine its own laws, and those laws deserve our respect. As D.C. Police Chief Charles Ramsey recently stated, ''We don't need a law that puts more assault weapons in circulation in D.C.'' I urge my colleagues to join me in opposing H.R. 3193.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this bill, which would repeal a number of local laws adopted by the District of Columbia City Council and would prohibit the passage of similar local laws in the future.

The laws in question deal with regulation of firearms. But that is not the reason for my opposition.

Instead, I oppose the bill because I think its enactment would be an abuse of our authority as Members of Congress. Its effect would be to reduce the right of self-government for one group of Americans—those who reside in Washington, DC.

I know the Constitution gives Congress the power ''to exercise exclusive legislation in all cases whatsoever'' over the District of Columbia—even though the residents of the district are not fully represented in either the House of Representatives or the U.S. Senate.

But Congress, through the Home Rule Act, has authorized the district's residents to elect a city council and mayor who will be immediately responsible for governing the city.

I am convinced this was the right thing to do. I support home rule for Washington, DC, because I think Americans who live in the district deserve to be able to govern themselves as much as possible consistent with the necessary functioning of the Federal Government. And this bill flies in the face of that principle.

It's true that the bill includes a ''finding'' that its enactment ''is required to correct the District of Columbia's law in order to restore the rights of its citizens under the second amendment to the United States Constitution and thereby enhance public safety.'' But I don't think that settles the matter.

I take seriously my oath to uphold the Constitution. But I am not convinced that fidelity to that oath requires a vote to repeal these local laws—especially since as far as I know there has been no successful challenge to their constitutionality in all the years they have been on the books.

And I certainly don't think fidelity to my oath requires me to support a reduction in the authority of the D.C. City Council to pass similar laws in the future, as this bill would do.

Further, while there is plenty of room to debate whether repealing these particular laws would or would not enhance public safety—just as there is room to debate whether the laws themselves are desirable or effective—I think that debate should not take place here in Congress. The laws this bill would repeal were duly adopted by the elected government of the district and they have not interfered with the orderly functioning of the Federal Government. So, in my opinion, decisions about retaining, amending, or repealing these local laws should be made by the city council—a body that is elected by and accountable to the people who are subject to them.

Instead, by passing this bill Congress would substitute its judgment for that of the local elected government—in effect denying their constituents the right to govern themselves on this subject.

We cannot—and we should not—do that to the residents of Colorado or any other State. I do not think we should do it to the people who live here in Washington, DC. We may not think these local laws are well-designed. But I think we should allow those covered by the laws to decide that for themselves.

Mr. PAUL. Mr. Speaker, I rise in support of House Resolution 3193, the District of Columbia Personal Protection Act. I am a cosponsor of this legislation that ensures greater respect for the right to bear arms in Washington, DC.

H.R. 3193 repeals several of the more draconian citywide Washington, DC, gun restrictions enacted in 1976. Restrictions H.R. 3193 will repeal include the requirement that all firearms be registered. Gun registration in other countries has created government lists of who owns what guns. Such lists facilitate the harassment of gun owners and the confiscation of their guns. Also repealed are blanket bans on the possession of handguns and handgun ammunition as well as any semi-automatic guns. These bans exist despite the fact that handguns and semi-automatic guns are regularly used outside Washington, DC, for self-defense. Also repealed is the prohibition on carrying a gun on one's own property. It is hard to say a person is free if he is prohibited from using the means of protecting himself and his family even in his own home.

It is unfortunate that people in the federal capital city have for nearly 30 years faced some of the most restrictive gun control laws in the country. This fact is particularly unfortunate given Washington, DC's recent history as the murder capital of the United States. Ironically, the place where people most need to bear arms to defend themselves from violent crimes has been one of the places where the exercise of that right has been most restricted.

A strong case can be made that the high rate of violent crimes, including murders, in Washington, DC, is due in part to restrictions on the exercise of the right to bear arms. When potential victims are likely armed, criminals think twice about committing violent crimes; a gun in the hands of a law-abiding citizen is an excellent deterrent to crime. Across the Potomac River from Washington, DC, Virginia does not have this horrific crime and murder rate. Yet, people in Virginia can buy, own, and even carry guns in public.

I am hopeful that the House's consideration of H.R. 3193 indicates a new openness to legislation that will roll back other unconstitutional and dangerous restrictions on Americans' right to bear arms. For years, federal lawmakers have been passing gun control laws, even though they have no authority to do so. Crime control, the stated reason for passing gun control laws in the first place, is a function belonging to the states.

Enacting H.R. 3193 would be a good first step in adopting legislation to restore the Federal Government's respect for the right to bear arms throughout the United States. The Federal Government has trampled on gun rights nationwide—not just in Washington, DC. I have introduced several pieces of legislation this Congress that would help restore respect for the right to bear arms, including the Second Amendment Protection Act, H.R. 153, that would repeal the now-sunset semi-auto ban, repeal the 5-day waiting period and ''instant'' background check imposed on gun purchases, and delete the ''sporting purposes'' test that allows the Treasury Secretary to classify a firearm as a destructive device simply because the Secretary deems the gun to be ''non-sporting.'' Additionally, Congress should consider my Right to Keep and Bear Arms Act, H.R. 3125, that prohibits U.S. taxpayers' dollars from being used to support or promote any United Nations actions that could infringe on the second amendment.

In 1976, I spoke on the floor of the House against the adoption of restrictions on the right to bear arms in Washington, DC, that H.R. 3193 seeks to repeal. Unfortunately, my argument then was ruled out of order, and the restrictions went into effect. While it has been too long in coming, I am glad that the House is finally considering this important issue. The District of Columbia Personal Protection Act would restore some much needed respect for the fundamental rights of people in Washington, DC.

Mr. BLUMENAUER. Mr. Speaker, I stand today in firm opposition to this legislation, which aims to repeal Washington, DC's local gun ban. I find it troubling and illogical that the House is repealing a ban on handguns and assault weapons in a city where the Federal Government has invested millions of dollars to increase and improve security. It is foolhardy for Congress to counter these actions by allowing loaded assault weapons to be carried

around this city, putting officers as well as citizens and visitors in danger.

Washington, DC has made great strides to reduce its crime rate—homicide has decreased by 25 percent over the past year and it has decreased by 55 percent since the passage of the Brady Bill and the Assault Weapons Ban in 1994. Despite these improvements, violence remains a serious problem in the District of Columbia. Sixteen children have been killed by gunfire in DC so far this year. These numbers are not going to improve if we allow loaded assault weapons to be carried within the city.

Not only is this legislation ill conceived and dangerous, it is a local matter that should not be within Congress's jurisdiction. The District of Columbia City Council and Mayor passed this ban during its first session in 1976. No laws have been passed locally to repeal the law and the courts have maintained its constitutionality. Now, this body, which does not even grant over half a million United States citizens living in the District of Columbia voting representation in Congress, is trying to further strip rights to these citizens by taking away a self-imposed law to protect their safety.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here today to join many of my colleagues to argue that guns are disproportionately killing our children in our cities and this law has no basis to be here in front of us today. We must act instantly to strike down both H.R. 3193 and S. 1414. DC has its own rules regulating purchasing and owning a gun, and we do not need to create legislation to usurp their power and go against their interest.

H.R. 3193 wants to repeal DC's handgun, semi-automatic, and ammunition bans, as well as the registration requirement. The bills will allow gun possession at home, work and on any property a person owns.

We are drowned in rhetoric saying that a Member of Congress who does not think handguns should be floating freely on our streets is someone who is anti-gun and wants to take your hunting rifles away. That is not this bill before us. You can keep your hunting rifles, you can keep your loaded guns in your business, but you do need some semblance of order on the street, where a small, innocent mistake encounter can turn into a massive bloodbath once guns are used instead of words.

Right now, DC's local laws do not prevent law abiding citizens from owning a firearm. Since 1976, District residents have registered over 100,000 firearms (mostly rifles and shotguns) with the Metropolitan Police Department (MPD).

Study after study is showing that guns protect very few at home and result in thousands of Americans killed in family and acquaintance quarrels, domestic violence and suicides. Guns obtained legally end up as weapons in domestic or neighborhood quarrels. Is this what we want in our neighborhoods? What is wrong with the mentality that it takes guns to solve problems and make people feel safe?

There is also the possibility of break-ins and thefts of guns. DC is on pace for a 20-year low in its homicide rate due in large part to DC police department's efforts at getting guns off the streets. It appalls me that Congress will sit here and enact measures to bring more guns back to the neighborhoods.

The homicide rate in DC is approaching a 20-year low, but the rate among juveniles is escalating. As chair of the Congressional Children's Caucus, and as a mother, I can tell you that providing troubled teens easier access to weapons is not the answer to lowering the rate of violent death among juveniles.

As a member of the House Select Committee on Homeland Security, we need to be doing everything we can to keep the men and women who protect the Nation's capitol out of harm's way. The Nation's capital is under an orange alert.

Placing more unregulated guns in the streets of DC undermines homeland security measures. Why must we compromise our own homeland security efforts by bring more handguns to the streets? Where are our priorities?

I have been collaborating with my colleague and good friend from the District of Columbia, Congresswoman ELEANOR HOLMES NORTON. She can echo that DC's current firearm laws are working. 97 percent of all guns used in crimes in DC originate outside of DC and 59 percent of traceable guns were first purchased in Maryland and Virginia. In addition, 8 percent of traceable guns were bought in North Carolina, Florida, Georgia and South Carolina.

In addition, H.R. 3193 violates state's rights. Its enactment would overturn the will of both DC elected officials and local residents. DC, like the 50 states, knows best what firearm regulations work for its residents. Firearm laws that work in Montana would not be perfect fit for a densely populated urban setting like DC. Both bills contain an especially odious provision forbidding the Council to enact any gun safety laws in the future.

It is a sad day for me to know that both H.R. 3193 and S. 1414 are driven by the NRA lobby and not by DC residents or Members of Congress who respect home rule. Neither H.R. 3193 nor S. 1414 is supported by local leaders, business groups or DC residents. These are the people who are most affected by its passage! Every major elected local official in DC along with business and labor groups, all the city's major community groups and civil groups have come out against any effort to overturn, modify or change the DC's gun safety laws.

As legislators, we must take our role in as decision makers very seriously. This includes knowing when we have overstepped our bounds. Please, listen to the people of DC to hear if they want guns on their streets.

Mr. DAVIS of Tennessee. Mr. Speaker, without a doubt, the provisions of the District of Columbia's gun laws that have the most adverse effect upon the largest number of law-abiding District residents, are the ban on using firearms to defend yourself at home, the handgun ban, and other measures that prevent or discourage the purchase of rifles and shotguns.

Much has already been said about those provisions of the District's gun laws, so I would like to address a provision that hasn't received the same amount of attention.

I refer to the section of the District's laws that define various types of firearms, particularly the definition of "machine gun."

As is fairly common knowledge, machine guns were invented in the late 1800s, and they are fundamentally the same today as they were then. They fire repeatedly as long as you hold the trigger down. They are the only firearms that operate in that way. And they all operate in that way.

Federal law defines a machine gun appropriately, as a gun that shoots—and I quote—"automatically more than one shot, without manual reloading, by a single function of the trigger." I know of no one who disagrees with that definition.

The problem is, the District also defines some semi-automatic firearms as machine guns.

Semi-automatic firearms were also invented in the late 1800s, but that is about where the similarity between them and machine gun ends.

Like a lever-action, bolt-action, or pump-action firearm, or a revolver, a semi-automatic firearm fires only once when you pull the trigger.

I realize that not everyone is clear on that point. "Gun control" supporters have gone to considerable lengths to suggest that a semi-automatic fires like a machine gun. For example, in the context of the "assault weapon" issue, "gun control" supporters often claim that semi-automatics "spray fire."

That does not change the facts, however. Thus, federal law correctly defines a semi-automatic firearm as one that, among other things—and I quote—"requires a separate pull of the trigger to fire each cartridge."

And so that no one misunderstands, let me be clear that conforming the District's definition to the Federal definition, does not change the law with respect to the ownership or possession of machine guns. Such guns are regulated under the National Firearms Act of 1934 and will remain regulated under that law.

Conforming the District's definition will mean only that District residents will not be prohibited from owning semi-automatic firearms that are legal to possess under federal law.

Mr. JACKSON of Illinois. Mr. Speaker, first. In addition to violating the Republicans' "sacred oath" to support "states' rights;" this body is violating the citizens of the District of Columbia's right to self-determination with respect to guns . . . just because it can. Congress, in 1993, denied American citizens the right to statehood and continues to deny them voting rights. DC's young people are fighting, dying and being wounded in Iraq and Afghanistan in the name of democracy and self-determination . . . something they don't have back home in DC! So Republicans in Congress exercise outside control over DC citizens, and DC citizens have limited means of fighting back, since they have no voting representation in Congress.

Second. The other side is forcing us to vote on this bill just to send a political message back home. The Senate has already rejected it, so we know it will not become law this year. They are doing it for political reasons just before the election on November 2—which they would never even think about doing to another state because the Americans they represent have a member in the House and two in the Senate. They are exploiting the politically impotent citizens of DC. It reminds me of the big bully in school picking on the littlest and weakest kid in the class. Let's be clear. They are forcing us to vote on this legislation in order to politicize the gun issue on the eve of the election in order to send a political message back home.

Third. In addition to all of that, let's look at the Republican flip-flop on the gun issue! What was the Republican Party saying about guns in 1968? And, I might add for context, in 1967–1968 our cities were in rebellion and our colleague, Congressman BOBBY RUSH, was a Black Panther, and the Panthers had guns?

But let's look at the Republican Platform language in 1968!

REPUBLICAN PARTY PLATFORM 1968

''We pledge an all-out federal-state-local crusade against crime, including enactment of legislation to control indiscriminate availability of firearms.''

REPUBLICANS IN CONGRESS IN 2004

First, on September 13, Republicans let the assault weapons ban expire!

Now the ''Republican District of Columbia Personal Protection Act''!

Sec. 3. Reform DC Council's authority to restrict firearms.

This section shall not be construed to permit the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons otherwise permitted to possess firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor regulated by the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.

Sec. 4. Repeal DC semiautomatic ban.

Sec. 5. Repeal registration requirement.

Sec. 6. Repeal handgun ammunition ban.

Sec. 8. Additional repeals.

Sec. 9. Remove criminal penalties for possession of unregistered firearms.

This bill is a waste of this body's time. It is wrongheaded. It is patently unfair. It is nakedly political. It is anti-democratic. And I urge its defeat.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in opposition to legislation that has been introduced to usurp the District of Columbia's home rule and greatly exacerbate an already very serious gun violence problem here in our Nation's Capital.

I am baffled at what the so-called ''District of Columbia Personal Protection Act'' introduced by the gentleman from Indian, has to do with personally protecting anyone in Washington, DC. To the contrary, if enacted, this legislation would work to increase homicides and gun violence in a city that has a history of struggling to protect its citizens from crimes involving firearms.

Leaders in the District of Columbia have long recognized that they have a serious crime and gun violence problem. Therefore, since 1976 they have seen fit to enact strict gun control laws in the District.

Last year, DC police confiscated a whopping 1,982 firearms from criminal suspects. So far this year, 1,385 guns have been recovered. If the aforementioned legislation were in place, most of those guns would still be on the streets and in the hands of criminals looking to use them to do harm.

Even more disturbing, the gentleman from Indiana's legislation doesn't stop at just repealing important DC laws such as those preventing the sale of assault weapons. No, it even goes so far as to prevent DC elected officials from enacting any regulation addressing the ownership or use of a firearm. That would mean no restrictions in the District on carrying concealed firearms in churches, movie theaters or shopping centers, no local requirement for gun safety training and no ability whatsoever for local officials to take action that will help keep guns out of the hands of gang members, terrorists or criminals.

Public officials on the ground, working in the District, know the needs of their constituents and the best means to protect them from gun violence. This legislation is a total affront to the concept of ''Home-Rule'' and a slap in the face to the people of the District of Columbia. Coming on the heels of the repeal of the Assault Weapons Ban, the House is leading the charge to strip the District's ability to protect its citizens by repealing popular and life-saving gun control measures.

Mr. Speaker, we've got a war raging right now in Iraq. We don't need to open another front right here on the city streets of our Nation's Capital. I oppose this legislation and urge my colleagues to do the same.

Mr. BISHOP of Georgia. Mr. Speaker, all Americans know that gun control continues to be a serious subject of debate, right here in the District of Columbia, in the State of Georgia, which I represent, and across this Nation. It's an issue of personal safety and of constitutional rights embedded in the fabric of our Nation.

I agree with those who want to restrict criminal access to guns. However, this must be done without compromising the constitutional rights of our law-abiding citizens.

I strongly support the right of law-abiding adults to purchase and own firearms for the protection of their homes and families, collecting, target shooting, and hunting. That's why I have and will continue to oppose any proposal that threatens this basic second amendment right.

I realize the concerns of some Americans who, in the wake of school shootings and other heinous illegal acts, call for stricter gun control measures. I understand those concerns. That's why I fully support measures that call for tougher sentences for the illegal use of firearms, to get offenders off the streets and out of our communities. I support stiff sentences of juveniles who use firearms illegally, and I support increasing the maximum penalty for adults who illegally provide those juveniles with firearms. That's how we must keep our schools and communities safe.

Mr. Speaker, tougher gun laws should not infringe on the rights of law-abiding citizens, and Congress has both the authority and the responsibility to ensure that they do not. So, the question before us today is not whether Congress can repeal the District of Columbia's handgun and self-defense bans, it is whether Congress should do so. The U.S. Constitution, the constitutions of 44 States, Federal law, the laws of all 50 States, the vast majority Georgians and of Americans recognize the right for law-abiding citizens to use firearms for protection, and for other legal purposes. Only the District of Columbia prohibits a person from having a firearm assembled and loaded at home for the purpose of self-defense. I believe that that's wrong. Pass this bill and allow DC residents to protect themselves from crime.

Mr. HOLT. Mr. Speaker, I rise today to express my strong opposition to H.R. 3193, the so-called District of Columbia Personal Protection Act.

I do not agree with the premise that more hand guns and assault weapons in the District will mean less crime on the streets of our Nation's Capital. The experts don't either. The Mayor of the District, Anthony Williams, strongly opposes this bill. The District's Chief of Police, Charles Ramsey, recently said that ''to reduce crime and prevent more senseless tragedies like the recent killings in Anacostia and Ballou, we need fewer—not more—weapons. . .'' The District's Delegate in the Congress ELEANOR HOLMES NORTON, is strongly against this legislation, as is the City Council.

Why, Mr. Speaker, do all these District leaders oppose this effort to overturn their gun laws? Because, to cite just recent examples, they have seen their neighbors, their family, and their co-workers mourn the loss of 16 local children killed by guns this year. And yet, today in the House, a place secured from weapons by metal detectors at every entrance and protected by our own dedicated police force, we are voting on legislation that will overrule the District's own sensible gun laws.

Today, I have heard from a number of my colleagues who support this legislation that the District of Columbia is the murder capital of the United States and that the best way to solve this problem is to increase access to hand guns and assault weapons. But what I want to ask is why we are not actually helping the District with its real underlying problems. Why are we not doing more to support the police officers on the streets of the District? Why are we not doing more to support after-school programs to keep children off the streets and away from guns and crime? Why are we not providing funds for job training and other educational programs for the District's residents, who desperately want to end the cycle of crime that plagues many of their District's communities? The simple answer is that this legislation is based not on sound public policy or on a desire to end gun-related crimes; this is a politically motivated attempt to curry favor with the National Rifle Association and other opponents of reasonable gun safety.

Mr. Speaker, I cannot understand why those who, day after day, rail on the floor of the House about their support for federalism are now taking significant steps to trample the right of the District to decide its own affairs. If my colleagues who support this measure really feel that the District should repeal its gun registration laws, repeal its assault weapons ban, and allow ''cop killer'' bullets on the streets, then I recommend that they register to vote in the District and lobby their local councilmember for such a change. This is the appropriate way to change the laws of the District of Columbia.

The elected leaders of the District of Columbia do not want this legislation. The people of the District of Columbia do not want this legislation. If passed, this legislation will put more people at risk of being shot with assault weapons or handguns—particularly at risk are children and police officers. It's time to stand up to the gun lobby and oppose legislation that will make the District of Columbia less safe. I strongly urge my colleagues to vote no on H.R. 3193.

Ms. SLAUGHTER. Mr. Speaker, I rise in opposition to this rule and this bill. The rule before us is a closed rule allowing only 60 minutes of debate and prohibits consideration of all the Democratic amendments offered to the Rules Committee.

Mr. Speaker, this bill repeals District of Columbia's laws that ban the sale and possession of handguns and semiautomatic weapons that have been in effect for over three decades.

Our constituents expect us to work on issues of national concern.

They expect us to complete the annual appropriations process and avoid a government

shutdown. Yet, today, with the end of the fiscal year 2 days away, Congress has only managed to complete one appropriation bill.

They expect us to continue to provide States with Federal assistance to build and maintain the Nation's highways. However, Congress has not acted to renew authorization for billions of dollars for critical surface transportation projects that expire on Friday. They expect us to take up the 9/11 Commission's recommendations to make America safer. They expect us to enact legislation to create new jobs and address the plight of the unemployed.

They do not expect us to waste the little time remaining on a bill that the chief sponsor in the other body has all but abandoned hope of getting to the President.

Why on earth is this body squandering the little time remaining in this session on this bill? One word. Politics. Brazen, election-year politics.

With only 7 legislative days left in this Congress, I know that my constituents sent me here to vote on bills of more importance to their lives.

H.R. 3193 repeals several District of Columbia firearms laws and limits the authority of the District to enact new firearms legislation.

Specifically, the bill repeals the District's ban on the sale and possession of handguns, handgun ammunition and semiautomatic weapons.

Mr. Speaker, I do not know where to begin in expressing my outrage about the legislation before us today.

The rule before us blocks consideration of meritorious amendments offered by my colleagues at Rules last night. These amendments would have reinstated the District's ban on semiautomatic assault weapons, reinstated the Federal ban on semiautomatic assault weapons, and reinstated the District's prohibition on the sale of armor-piercing bullets—the so-called "cop-killer" bullets.

I think the majority of our constituents would be appalled to learn that this bill exempts semiautomatic weapons that fire 12 or more shots without manual reload from the District's "machine gun" restrictions.

We should be here considering legislation to renew the national assault weapons ban that unceremoniously expired a couple of weeks ago—not making a mockery of DC's restrictions on semi-automatic weapons.

As DC Mayor Anthony Williams wrote to congressional leadership, "It is unthinkable that while the Nation's capital is under alert, Congress should take action to expose more than half a million residents, almost 200,000 federal workers and 20 million tourists to greater danger."

It is unthinkable to put our officers at greater risk at a time when Capitol Police—alone—are asking for $20 million to secure the Capitol Building for this year. The last thing they need to hear is that semi-automatic weapons can now be carried on the National Mall or cop-killer bullets are legal in the District.

It is worth pointing out the hypocrisy of my colleagues who support this bill by arguing that the District's gun laws infringe on DC citizens' second amendment right to bear arms.

While the bill changes the law to allow DC residents to carry pistols, open or concealed, in their homes and places of business, it does not repeal another DC gun law. The law we will not repeal today is the provision outlawing people from carrying or having readily access to a firearm "upon the United States Grounds or within the Capital Buildings."

So we will vote to approve guns in another person's workplace in DC, but not in our offices.

It is unthinkable that only 2 years after the Washington area was terrorized by snipers who killed 10 people in the region, and while the Nation's capital is still under a terrorist alert, Congress would take action on this bill.

We must not lose sight of the innocent victims of gun violence.

Yesterday, the front page of the Washington Post reported that a 13-year-old boy was fatally shot inside his apartment, the 21st child killed this year in DC.

When we voted on this same issue in the aftermath of the Columbine shootings, it failed by a vote of 175 to 250. I hope my colleagues remember their outrage to that senseless killing and recognize that this bill and the recent lapse of the 1994 Federal ban on semi-automatic weapons place our children in more danger.

So, Mr. Speaker, to recap, we are not considering bills to create jobs, we are not passing the budgets for Federal agencies and services, and we are not improving our homeland security. No, today we are debating legislation to allow more lethal guns and ammunition to be on the streets of our Nation's capital—in the hands of would-be terrorists, gang members, and other violent criminals.

Mr. Speaker, again, I strongly urge my colleagues to oppose this closed rule and to vote against the underlying bill.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in strong support of the DC Personal Protection Act.

This commonsense legislation will restore the constitutional right of DC citizens to lawfully protect themselves and their families from criminals.

The simple fact is that Washington, DC is one of the most dangerous cities in America.

Year after year, Washington, DC, is in the running for the disgraceful title of "the murder capital of the United States." FBI statistics released last year reveal that Washington, DC, has the highest per capita homicide rate of any big city in America.

Ironically Washington, DC, has the toughest gun control laws of any city in the Nation.

In 1976 the City Council banned handguns and required rifles and shotguns to be registered and stored disassembled.

What's really sad is that prior to the DC gun ban, the city's homicide rate was on the decline.

However in the 15 years between 1976 and 1991, the District's homicide rate skyrocketed 200 percent while the national homicide rate rose just 12 percent.

And as of 2002, DC's homicide rate was almost double the rate from when the gun ban took effect—nearly five times higher than the national average.

When will we learn that gun control does not make the public safer?

Criminals ignore gun bans while good citizens abide by them.

That's a recipe for disaster, just as we've seen in our Nation's capital.

For the sake of our constitutional right to bear arms and for the safety of law abiding DC citizens and their families, support this bill.

Mr. CUMMINGS. Mr. Speaker, I rise in opposition to the District of Columbia Personal Protection Act, H.R. 3193, an outrageous effort spearheaded by my friend Representative SOUDER of Indiana, to repeal the ban on the possession of firearms in the District of Columbia.

Mr. Speaker, I rise today to support Delegate ELEANOR HOLMES NORTON, the DC elected officials, Mayor Anthony Williams, business, labor and civil rights groups and most importantly the District's local residents, who have spoken out against repealing this ban. If this Congress passes H.R. 3193, we will ignore their urgent cries—to spare their communities from further gun violence.

I think I should point out to those Members who believe that the NRA interests should trump the interests of the District's citizens, let's remember the principles of DC home rule that were recently cemented by the Federal courts in Seegars v. Ashcroft. In Seegars, the court held that because the District of Columbia is not a State, then the second amendment did not apply and the ban was not unconstitutional. Congress should respect the court's decision and the District's right to home rule to allow the gun ban to remain in place.

Just ask the parents of 16-year-old Ashley Walker, killed Sunday, September 26, 2004, and the parents of 13-year-old Michael Swan, killed Monday, September 27, 2004, if they believe that more guns should be permitted in the District. These parents know all too well what it means to lose someone to gun violence. They know the importance of maintaining this ban and that creating an environment of proliferation of guns is antithetical to saving lives.

Yet despite these tragedies, Mr. Speaker, the homicide rate in DC is approaching a 20-year low. In fact, DC homicides are down by 24 percent from last year and 55 percent since 1994. It is clear that this ban saves lives.

In my own district in Maryland, there has been an overwhelming decline of assault pistols used in crimes since the Maryland Assault Pistol Ban in 1994.

The Baltimore City Police Department concluded that since the ban's enactment that 55 percent fewer assault pistols were used in crimes. These are real statistics from cities that had been plagued by violence in the past decade; but these cities are also evidence of the success that has sprung from banning assault weapons.

Once again Mr. Speaker, with statistics such as these, we cannot ignore the fact that this ban saves lives.

There are Members of this body who will argue that this bill will give DC residents a sense of protection and restore their second amendment rights. I argue just the opposite. First, under the current law, DC residents may currently own registered guns—in fact over 100,000 firearms have been registered since 1976. Secondly, lifting the ban would engender all sorts of travesties: fully loaded assault weapons—to be carried in public in some instances—acquisition of armor-piercing ammunition—including "cop-killer" bullets—elimination of the District's registration program—even for assault weapons—and issuance of permits to individuals to carry concealed handguns in their places of business. I and other reasonable-minded individuals agree that this legislation is a far cry from providing residents with a "sense of protection." We would argue

that this legislation would only restore a culture of violence that the ban has significantly reduced.

Mr. Speaker, if H.R. 3193 is passed we will once again ignore the millions of Americans who have pleaded with the administration and this body to extend the ban in the District of Columbia and the national assault weapons ban, contained in H.R. 2038. We cannot fail the residents of the District like we failed the millions of Americans when we allowed the assault weapons ban to expire just weeks ago.

Mr. Speaker, we must listen to the residents of this District, citizens who do not have voting representation in Congress. I urge my colleagues to vote against repealing the DC gun ban—vote against H.R. 3193.

Mr. STUPAK. Mr. Speaker, I wanted to take a moment to discuss today's floor vote on H.R. 3193, to repeal the DC gun ban. I voted in favor of this bill. However, I am concerned with how this legislation came to the floor—without a hearing and without the opportunity to offer amendments. In addition, I am a strong supporter of local rule and this legislation, although I agree with the principle, blocks the local District of Columbia government from having any authority over the matter. Again, I support the legislation in general, I just don't believe appropriate procedure was followed on such a controversial issue.

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

The SPEAKER pro tempore (Mr. FOSSELLA). All time for debate has expired.

Pursuant to House Resolution 803, the previous question is ordered on the bill, as amended.

The question is on 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. SOUDER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on questions postponed earlier today.

Votes will be taken in the following order: motion to instruct on H.R. 4520, de novo; passage of H.R. 3193, recorded vote.

The Chair will reduce to 5 minutes the time for the second electronic vote.

## MOTION TO INSTRUCT CONFEREES ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question de novo of agreeing to the motion to instruct conferees on H.R. 4520 offered by the gentleman from Massachusetts (Mr. NEAL).

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. NEAL).

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

RECORDED VOTE

Ms. NORTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 215, not voting 12, as follows:

[Roll No. 476]

AYES—205

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

NOES—215

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

NOT VOTING—12

Blunt
Boehlert
Bonilla
Cannon
Gephardt
Hastings (FL)
Hoeffel
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

□ 14311

Mr. SIMPSON, Mr. BURGESS, Mrs. CUBIN and Mr. UPTON changed their vote from ''aye'' to ''no.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

The SPEAKER pro tempore (Mr. FOSSELLA). The pending business is the question of passage of the bill, H.R. 3193, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which a recorded vote was ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 250, noes 171, answered ''present'' 1, not voting 10, as follows:

[Roll No. 477]

AYES—250

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Flake
Forbes
Ford
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Wamp
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—171

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Bono
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Frank (MA)
Frelinghuysen
Frost
Gilchrest
Gonzalez
Greenwood
Grijalva
Gutierrez
Harman
Hinchey
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Quinn
Ramstad
Rangel
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wolf
Woolsey
Wu
Wynn
Young (FL)

ANSWERED ''PRESENT''—1

Obey

NOT VOTING—10

Boehlert
Cannon
Gephardt
Hastings (FL)
Hoeffel
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1458

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

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PARLIAMENTARY INQUIRY

Mr. CONYERS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman will state his parliamentary inquiry.

Mr. CONYERS. Mr. Speaker, under the provisions of the bill just passed, H.R. 3193, will the Members of the House of Representatives be allowed to bring concealed weapons to the floor of this body?

The SPEAKER pro tempore. The gentleman's question is not a proper parliamentary inquiry.

The rules of the House would govern that question as a matter of decorum.

## APPOINTMENT OF CONFEREES ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. THOMAS, CRANE, MCCRERY, RANGEL and LEVIN.

From the Committee on Agriculture, for consideration of title VII of the House bill, and subtitle B of title XI of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 489, 490, 616, 701, and 719 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, SAM JOHNSON of Texas, and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of section 662 and subtitle A of title XI of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, BURR and WAXMAN.

From the Committee on the Judiciary, for consideration of sections 422, 442, 1111, 1151 and 1161 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and CONYERS.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

There was no objection.

## GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.J. Res. 107, and that I may include tabular material on the same.

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

There was no objection.

## CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2005

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 802, I call up the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 107 is as follows:

H.J. RES. 107

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2005, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2004 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2004, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004.

(2) The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

(3) The District of Columbia Appropriations Act, 2004.

(4) The Energy and Water Development Appropriations Act, 2004, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

(5) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

(6) The Department of Homeland Security Appropriations Act, 2004.

(7) The Department of the Interior and Related Agencies Appropriations Act, 2004.

(8) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004.

(9) The Legislative Branch Appropriations Act, 2004.

(10) The Military Construction Appropriations Act, 2004.

(11) The Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.

(12) The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2004.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. The appropriations Acts listed in section 101 shall be deemed to include miscellaneous and supplemental appropriation laws enacted during fiscal year 2004.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2004.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Activities authorized for 2004 by sections 1902(a)(10)(E)(iv) and 1933 of the Social Security Act shall continue through the date specified in section 107(c) of this joint resolution: *Provided*, That for purposes of the budget scoring guidance in effect for the Congress and the Executive branch respectively, and notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the provisions of this section shall be deemed to be direct spending.

SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 20, 2004, whichever first occurs.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2004 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2005 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. Activities authorized by section 403(f) of Public Law 103–356, as amended by section 632 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (Public Law 108–199, division F), and activities authorized under the heading ''Treasury Franchise Fund'' in the Treasury Department Appropriations Act, 1997 (Public Law 104–208, division A, section 101(f)), as amended by section 123 of the Treasury Department Appropriations Act, 2003 (Public Law 108–7, division J), may continue through the date specified in section 107(c) of this joint resolution.

SEC. 113. The authority provided by section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723) shall continue in effect through the date specified in section 107(c) of this joint resolution: *Provided*, That such authority shall not be available until after the date on which the Secretary of Defense submits all of the quarterly reports required for fiscal year 2004 under subsection (d) of such section 2808.

SEC. 114. Notwithstanding any other provision of this joint resolution, except sections 107 and 108, amounts are made available for the Strategic National Stockpile (''SNS'') at a rate for operations not exceeding the lower of the amount which would be made available under H.R. 5006, as passed by the House of Representatives on September 9, 2004, or S. 2810, as reported by the Committee on Appropriations of the Senate on September 15, 2004: *Provided*, That no funds shall be made available for the SNS to the Department of Homeland Security under this joint resolution: *Provided further*, That amounts made available to the Department of Homeland Security under this joint resolution are reduced by the amount otherwise attributable to funding for the SNS: *Provided further*, That the terms and conditions of H.R. 5006 shall apply to funds made available under this section.

SEC. 115. Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) shall be applied by substituting the date specified in section 107(c) of this joint resolution for ''October 1, 2004''.

SEC. 116. The authorities provided by sections 344, 1023, and 1306 of Public Law 108–136, sections 1318 and 1319 of Public Law 108–11, and section 302j(a) of title 37, United States Code, shall continue in effect through the date specified in section 107(c) of this joint resolution or the date of enactment into law of a defense authorization Act for fiscal year 2005, whichever is earlier.

SEC. 117. Section 6 of Public Law 107–57, as amended by section 2213 of Public Law 108–106, shall be applied by substituting the date specified in section 107(c) of this joint resolution for ''October 1, 2004'', and sections 508 and 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Public Law 108–199, division D), as made applicable to fiscal year 2005 by the provisions of this joint resolution, shall not apply with respect to Pakistan through the date specified in section 107(c) of this joint resolution.

SEC. 118. Programs, activities, eligibility requirements, and advisory committees authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) through fiscal year 2004, shall remain in effect through the date specified in section 107(c) of this joint resolution.

SEC. 119. (a) Section 616(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Public Law 108–199, division D) shall apply to funds made available by this joint resolution pursuant to section 619(a) of such Act: *Provided*, That for purposes of funds made available by this joint resolution that are used to carry out section 616(d) of such Act, a candidate country is a country that satisfies the requirements of subparagraphs (A) and (B) of section 606(a)(2) of such Act.

SEC. 120. Notwithstanding any other provision of this joint resolution, except section 107, the District of Columbia may expend local funds for programs and activities under the heading, ''District of Columbia Funds—Operating Expenses'' at the rate set forth for such programs and activities under title II of H.R. 4850 of the 108th Congress, as passed by the House of Representatives: *Provided*, That section 2302 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11) shall be applied by substituting the date specified in section 107(c) of this joint resolution for ''September 30, 2004''.

SEC. 121. Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended by adding the following new subsection at the end:

''(e)(1) The Panama Canal Commission and the Office of Transition Administration (described in section 3504 of Public Law 106–65) shall terminate on October 1, 2004.

''(2) Upon termination pursuant to paragraph (1), the Panama Canal Revolving Fund shall be transferred to the General Services Administration (GSA). GSA shall use the amounts in the Fund to make payments of any outstanding liabilities of the Commission, as well as any expenses associated with the termination of the Office of Transition Administration and the Commission. The fund shall be the exclusive source available for payment of any outstanding liabilities of the Commission.''.

SEC. 122. (a) Notwithstanding any other provision of law or of this joint resolution, except section 107, such amounts as may be necessary for administrative expenses of the following operating administrations shall be available to the Secretary of Transportation out of the Highway Trust Fund (other than the Mass Transit Account) at a rate for operations not exceeding the current rate and for which authority was made available under the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004:

(1) Federal Highway Administration, for purposes described in 23 U.S.C. 104(a)(1)(A);

(2) Bureau of Transportation Statistics, in accordance with 49 U.S.C. 111;

(3) National Highway Traffic Safety Administration, in accordance with chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code;

(4) National Highway Traffic Safety Administration, in accordance with 23 U.S.C. 402, 403, 405, 410 and chapter 303 of title 49, United States Code; and

(5) Federal Motor Carrier Safety Administration, for purposes described in 23 U.S.C. 104(a)(1)(B):

*Provided*, That funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code: *Provided further*, That paragraphs (1), (2), and (3) of this subsection shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(b) Notwithstanding any other provision of law or of this joint resolution, except section 107, such amounts as may be necessary for administrative expenses of the Federal Transit Administration, in accordance with the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, shall be available to the Secretary of Transportation out of the Mass Transit Account of the Highway Trust Fund at a rate for operations not exceeding the current rate and for which authority was made available under the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004: *Provided*, That funds authorized under this subsection shall be available for obligation in the same manner provided under section 5338(g) of title 49, United States Code.

(c) Notwithstanding any other provision of law or of this joint resolution, except section 107, such amounts as may be necessary for the Federal Motor Carrier Safety Administration to make grants to and enter into contracts with States for personnel costs for implementation of 49 U.S.C. 31102, commercial driver's license program improvements, border enforcement operations, and section 210 of Public Law 106–159 shall be available to the Secretary of Transportation out of the Highway Trust Fund (other than the Mass Transit Account) at a rate not exceeding the current rate and for which authority was made available under the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004: *Provided*, That funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code and shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(d) For purposes of the budget scoring guidance in effect for the Congress and the Executive branch respectively, and notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the provisions of subsections (a), (b), and (c) with regard to contract authority shall be deemed to be direct spending.

(e) Notwithstanding any other provision of law, amounts shall continue to be appropriated or credited to the Highway Trust Fund after the date of any expenditure pursuant to this joint resolution.

SEC. 123. Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq, subject to the regular notification procedures of the Committees on Appropriations, through the date specified in section 107(c) of this joint resolution.

SEC. 124. Notwithstanding any other provision of this joint resolution, and notwithstanding the language in the paragraph under the heading ''Housing for Persons With Disabilities'' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2004, the Secretary of Housing and Urban Development shall make $14,610,000 from amounts appropriated under such heading in fiscal year 2004 available for amendments to existing tenant-based assistance contracts entered into prior to fiscal year 2004 pursuant to section 811 of the Cranston-Gonzalez National Affordable Housing Act (with only one amendment authorized for any such contract).

SEC. 125. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) shall be applied by substituting the date specified in section 107(c) of this joint resolution for ''September 30, 2004''.

SEC. 126. For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2004, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2004, to be continued through the date specified in section 107(c): *Provided*, That notwithstanding section 107, funds shall be available and obligations for mandatory payments due on or about November 1 and December 1, 2004, may continue to be made.

SEC. 127. Notwithstanding section 101 of this joint resolution, amounts are provided for ''Special Supplemental Nutrition Program for Women, Infants and Children (WIC),'' at a rate for operations not to exceed $5,087,000,000.

SEC. 128. Notwithstanding section 101 of this joint resolution, amounts are provided for ''Election Assistance Commission—Salaries and Expenses'', at a rate for operations not to exceed $7,800,000: *Provided*, That such amounts may be apportioned to reflect the agency activities associated with a Federal election.

SEC. 129. Funds available under this joint resolution for ''Bureau of Indian Affairs—Indian Land and Water Claims Settlements and Miscellaneous Payments to Indians'' shall be available for payments by the United States pursuant to the settlement of *Seneca Nation of Indians* v. *State of New York*.

SEC. 130. Amounts available under this joint resolution to carry out subtitle D of title XXXVI of Public Law 106–398 shall be deemed to include transfers of funds from other accounts made during fiscal year 2004 to carry out the purposes of the subtitle and the amounts available under this joint resolution for the accounts from which funds were transferred shall be adjusted for the transfer.

SEC. 131. For the purposes of the Ricky Ray Hemophilia Relief Fund Act of 1998 (Public Law 105–369), the term ''expended'' in section 101(d) of such Act and the term ''payment'' in section 103 of such Act shall mean ''delivered orders-obligations unpaid'' as defined in the United States Standard General Ledger Accounts and Definitions.

SEC. 132. Notwithstanding any other provision of this joint resolution, except section 108, for expenses necessary to carry out the Presidential Transition Act of 1963, $2,500,000.

SEC. 133. Title II of Public Law 108–106 is amended under the heading ''Iraq Relief and Reconstruction Fund'' by—

(1) striking ''$3,243,000,000'' and inserting ''$5,090,000,000'' for security and law enforcement;

(2) striking ''$1,318,000,000'' and inserting ''$1,960,000,000'' for justice, public safety infrastructure, and civil society;

(3) striking ''$5,560,000,000'' and inserting ''$4,455,000,000'' for the electric sector;

(4) striking ''$1,890,000,000'' and inserting ''$1,723,000,000'' for oil infrastructure;

(5) striking ''$4,332,000,000'' and inserting ''$2,361,000,000'' for water resources and sanitation;

(6) striking ''$153,000,000'' and inserting ''$845,000,000'' for private sector development; and

(7) striking ''$280,000,000'' and inserting ''$342,000,000'' for education, refugees, human rights and governance.

SEC. 134. Title II of Public Law 108–106 is amended under the heading ''Iraq Relief and Reconstruction Fund''—

(1) in the sixth proviso, by striking ''$29,000,000'' and inserting ''$119,000,000''; and

(2) in the seventh proviso by—

(A) striking ''Coalition Provisional Authority'' and inserting ''United States Agency for International Development''; and

(B) striking ''to fully pay for its'' and inserting ''for''.

SEC. 135. Sections 569 and 574 of H.R. 4818, as passed by the House of Representatives on July 15, 2004, are hereby enacted into law: *Provided*, That not to exceed $360,000,000 of the funds made available by Public Law 108–106 under the heading ''Iraq Relief and Reconstruction Fund'' may be made available for the purposes of such section 569.

SEC. 136. During the portion of fiscal year 2005 covered by this joint resolution, the Corps of Engineers shall continue work on all uncompleted projects underway in fiscal year 2004, notwithstanding budget proposals to withhold funding for shore protection and certain construction projects, and shall not divert funds into any reserve fund not specifically authorized by an Act of Congress.

The SPEAKER pro tempore. Pursuant to House Resolution 802, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

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

Mr. Speaker, I am doing something today that I had hoped throughout the year could have been avoided, and that is a continuing resolution because the Congress has not completed all of its appropriations bills. Before I get into that, though, I think it is important that I say just a brief word about the Committee on Appropriations in the House and the House of Representatives.

The House Committee on Appropriations reported every one of its bills by July 22. Today is September 29. The House has passed 12 of those bills, and all of those bills have been at a level within the budget resolution, the budget resolution which in fact we do not really have. We did not pass a budget resolution this year, and finally about 6 weeks after we should have passed it, we passed a deeming resolution that did allow us to set a 302(a) allocation and our 302(b) allocations.

□ 1500

The House has done a good job. Unfortunately, only one of those bills has actually become law because the House and the Senate must agree on legislation before it can be sent to the desk of the President for his signature. That has only happened on one bill, despite the fact the House has passed 12 appropriations bills and several supplementals.

This continuing resolution would keep the government functioning at existing levels until November 20, 2004. This will allow Congress to recess for a brief period of campaigning for the election which happens on November 2. But we will be back. We will be back the week of November 15 in order to conclude the balance of the appropriations bills.

The Senate has passed a total of six appropriations bills. We will have one of those in conference, hopefully tomorrow, the homeland security bill. There are four other bills that we believe we can conference and report to the House sometime next week before we adjourn for the election. In the meantime, an omnibus bill is going to be necessary. Between the October 8 recess and November 15, the appropriations committees in both Houses will work to conclude the work on an omnibus bill so the Members will have a chance to vote on it prior to sine die adjournment.

The CR includes a continuation of funding for all agencies except those included in the Defense appropriations bill because it has already been enacted into law. We are continuing to work on the other bills, as I mentioned.

Let me say something about what is included in this CR, because there are some anomalies that are time sensitive that must be taken care of. As I said, the CR will go to November 20. As in past continuing resolutions, it does not permit any new starts, and it restricts obligations on high initial spend-out programs so the annualized funding levels in this bill will not impinge on our final budget deliberations.

It includes provisions that allow for the continuation of programs and fee collections that would otherwise expire, such as entitlements under the food stamp program, Medicare part B premium assistance, certain child nutrition programs, the WIC program, and certain SBA loan programs.

The CR also allows for continuation of Department of Defense authorities that expire on September 30. We have worked with the Committee on Armed Services to ensure that these authorities are extended through the period of the CR, and they include something very important to the families of those of our military who were wounded in Iraq, Afghanistan and who are in hospitals or in VA hospitals getting treatment for their wounds. The authority to pay for travel and transportation benefits for those family members and clothing allowances for the military personnel injured during these operations would expire on September 30, tomorrow, at midnight. We provide a correction for that by extending that provision for the period of this CR.

We also extend the authority to provide prepaid phone cards to all of our troops in certain combat zones. Also authority for bonuses and special pay for certain military personnel is extended. Authority for DOD to use funds available for drug interdiction and counterdrug activities to provide assistance to the government of Colombia in support of ongoing counterterrorism efforts is extended. And also authority for a chemical weapons destruction facility in Russia is extended.

A provision is also included that reallocates funds provided under the Iraq Relief and Reconstruction Fund in response to the request submitted to the Congress by the Secretary of State on September 14, 2004, and through a reallocation of existing funds provides sufficient funding for operating costs of the Agency for International Development, continuation of oversight and Iraq debt forgiveness.

The CR also allows the District of Columbia to spend local funds through the period of the CR at the budget levels passed by the House. The CR ensures that funding is available to conduct administrative oversight and to pay certain Department of Transportation personnel managing surface programs in the absence of reauthorizations for such programs. It also ensures sufficient funding for the Election Assistance Commission and funding for Presidential transition staff, if necessary, to be available immediately following the Presidential election.

Mr. Speaker, I do not think this is a controversial CR at all, but it does include these important items that I mentioned. But it is important because tomorrow at midnight, the government runs out of money, so it is important to pass this continuing resolution, get it to the other body, and get it to the President. I hope we can pass this expeditiously.

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

Mr. OBEY. Mr. Speaker, I yield 5½ minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise to express some concerns about the provisions in the continuing resolution allowing for the reprogramming of $3.46 billion in Iraq reconstruction funds.

I would first like to take a moment to express my appreciation and respect for all military, civilian, and contractor personnel stationed in Iraq today. They are working to bring democracy and stability to Iraq in an atmosphere of extreme danger, and I have great admiration for their courage. We owe them a great deal for their sacrifices.

This bill addresses the administration's request to shift $3.46 billion within the $18 billion Congress approved for the reconstruction of Iraq. This shift moves funds away from essential rebuilding efforts in the water and electricity sectors to deal with the deteriorating security situation in Iraq and the upcoming elections. The bill specifies new amounts for the various sectors of reconstruction assistance while retaining the underlying set of requirements for congressional notification and reporting.

I have great respect for General Petraeus and his staff who have put together this new plan. I am hopeful that the reprogramming will help address the dire security situation that has hindered much of our reconstruction work. But if we examine the facts, we find that since the start of combat operations in Iraq, 1,050 soldiers have been killed, 7,532 wounded; and since the end of major combat operations which the President declared on May 1, 2003, 909 have been killed and 6,990 wounded.

The statistics on the security situation are equally as staggering. In March of this year there were an average of 20 insurgent engagements per day. By September that number had increased more than fourfold, to 87 per day.

President Bush said earlier this month, and I quote, ''What is critical is that the President of the United States speak clearly and consistently at this time of great threat in our world, and not change positions because of expediency or pressure.'' We have given the President what he requested because we need to move aggressively to address the security situation. However, the administration must be honest with the American people.

Before the war, we had the distinct impression from both the President and Vice President that the length of U.S. deployment and the cost of reconstruction would be minimal. Their assessments were hopelessly naive and ignored the lessons of history. Today, 1 year after Congress provided the $18 billion in reconstruction funds, only slightly more than $1 billion has been spent. The insecure environment has

slowed the pace of reconstruction to a crawl. It has become crystal clear that we have no coherent plan to win the peace.

The administration claims that there are 100,000 Iraqi security forces trained and operating in Iraq today and that 145,000 will be trained by January. The facts are that 22,700 security personnel have received enough basic training to make them minimally effective at their tasks. Only 8,200 police have even received a basic 8-week training course. At the current pace of training, we will not have the current 90,000-man force trained until February 2006. Today, only 4,800 Iraqi Army personnel have been trained and equipped. By mid-October we may reach 8,000. Only eight of the 45 existing Iraqi National Guard battalions have reached initial operating capability. No border enforcement personnel have received centralized training.

Despite administration claims to the contrary, Iraq is becoming less secure. The difficulties in training and recruiting Iraqi security forces means even these modest goals will be difficult to attain. Holding elections in January has become a cornerstone of the President's plan to democratize Iraq and has been a critical factor in gaining support across Iraqi society for the interim government.

However, a stalemate between the Electoral Commission and the Ministry of Finance has meant that the commission has received only $7 million of the $232 million in Iraqi funds set aside for them. Many of the critical elements for conduct of the elections, such as procurement of vehicles, voting equipment and ballots are incomplete and voter lists have not even been created yet. No actual parties have formed. There is no process in place for that to happen. The U.N. has yet to deploy enough people to Iraq to supervise the process. We all know of the necessity of these promised elections, but many obstacles remain.

Beneath these numbers is the sad fact that overhead costs on all reconstruction activities in Iraq are now ranging between 30 and 50 percent. This means that for every dollar we appropriate for reconstruction, we only get 50 cents' worth.

We need to get this right. The battle for global stability and security is larger than Iraq. If American strategists cannot outsmart the terrorist insurgents, if we let them derail the bright future we have promised the Iraqi people, there will be serious consequences for U.S. national security objectives.

I hope that this shift in funds helps to win the peace in Iraq and that this plan will succeed where others have failed. I remain firmly committed to bringing stability to Iraq and fighting terror. American lives are at stake. But we must be honest with each other about the pace at which progress can occur and stop the deliberate distortions.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. KOLBE), the distinguished chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me this time, and I do rise in support of House Joint Resolution 107 to provide continuing resolutions for the operations of the United States Government. A number of sections in this continuing resolution do apply to the foreign operations appropriations and many of these items have a direct bearing in our war on terrorism.

Section 117 allows Pakistan, our vital ally in the war on terror, to continue to be eligible for U.S. assistance during the period of the CR. As we know, Pakistan's active participation in the war on terror is critical to U.S. efforts in Afghanistan. Section 119 allows the Millennium Challenge Corporation to offer a limited assistance to those countries that meet some of the criteria for MCC assistance but cannot yet get over the threshold of the criteria that is required for that. The administration is working more slowly than I think a lot of us would like to establish which countries would be eligible for this additional special assistance.

Section 123 allows the Overseas Private Investment Corporation to follow through on transactions to promote the private sector and greater employment opportunities for Iraqis during the period of the CR. Ideally, these transactions will help create some of the preconditions for stability as Iraq moves towards elections in January.

The heart, Mr. Speaker, is section 133. This will enable the Secretary of State to rebalance the assistance in the Iraq Relief and Reconstruction Fund with a significantly greater amount, $1.8 billion, going to train and equip Iraq's security forces. The legislated change is necessary because the supplemental enacted last November allocated funding for specific sectors with flexibility for transfers between sectors. This sectoral allocation was intended to provide transparency and to improve oversight of the use of the funds.

However, due to circumstances that have developed on the ground, the flexibility in current law is insufficient to allow the State Department to provide significantly greater funding for security and employment activities, and I think we all understand that security must be the top priority.

□ 1515

Section 134 provides the Agency for International Development with the authority to use $90 million from within already appropriated amounts for the costs of operating its assistance programs in Iraq. Effective implementation of these programs is important if we are to help Iraq's economic and political systems evolve.

Finally, section 135 allows the U.S. to continue its leadership in pushing for reduction of Iraq's debt. It provides former Secretary of State James Baker with the tools for upcoming debt negotiations in the Paris Club this fall. It would enable the U.S. to forgive nearly $4 billion of debt owed by Iraq, thus spurring vastly greater amounts of debt forgiveness by Iraq's other creditors. This section also makes the modest technical changes to allow the Secretary of State to take responsibility for future reports to Congress on Iraq's reconstruction and to enable greater congressional oversight over the use of agency administrative expenses in Iraq.

On balance, I think this is a good bill and provides some important considerations to keep the foreign policy of the United States moving forward. I urge my colleagues to support this joint resolution.

Mr. OBEY. Mr. Speaker, I yield 6½ minutes to the distinguished gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

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

Mr. Speaker, today, our Republican friends are waving a white flag, announcing what has become so obvious to so many, that they have surrendered to their own intransigence, that they cannot get their work done.

The sad fact is that the gentleman presenting this bill is not responsible for this failure. In fact, his leadership of the committee was consistent with doing our work on time. But his colleagues did not assist him in that effort.

This continuing resolution is nothing less than an admission of failure by the House Republican leadership. But it is a fitting capstone to the least productive session of Congress that I have been a part of since I was elected to this body in 1981.

We are setting a record today, Mr. Speaker, but not a record that any of us can be proud of. So far, and all of my colleagues ought to listen to this, so far in this second session of the 108th Congress, we are on course to work fewer days, 93 as of today, than any other single session since 1948; 1948 was the famous ''Do Nothing Congress.'' This Congress is doing even less than the ''Do Nothing Congress.''

Yet while this Republican Congress keeps banker's hours, it has failed to enact a budget. It has failed to enact a comprehensive energy bill. It has failed to enact intelligence reform. It has failed to enact a bill to eliminate European Union trade sanctions on American manufacturers. And it has failed to enact and pass a highway bill, a reauthorization which would create 42,000 American jobs for every $1 billion spent on repairing and building highways, repairing and building bridges, and fixing and providing for mass transit systems in America so that commerce and people could move effectively.

And now, now, this Republican leadership must pass this continuing resolution because it has enacted only one

of 13 appropriation bills within the time frame established for it. This is the leadership that said in the Contract with America that we are going to bring efficiency and effectiveness to the management of the House of Representatives.

Joe Scarborough the other day said in an article, ''We said all this and we lied.'' Joe Scarborough, conservative Republican from Florida.

I intend to vote, of course, Mr. Speaker, for this continuing resolution, as the chairman will, because it is necessary and responsible to do so. But let no one be mistaken, this CR is far more than a mere formality. The Republicans' failure to pass appropriation bills on time has real-world consequences to real people, to States, localities, municipalities and every individual.

Because they failed to enact the Homeland Security bill, critical funding for the SAFER program is not available, money to hire additional firefighters and emergency response teams. That means fire departments across the Nation will be delayed in their efforts to hire, recruit and retain firefighters.

Because they have failed to enact the Transportation-Treasury bill, nearly $1 billion in airport improvement grants is not available. That means airport security fencing and the construction of airport rescue and firefighting stations will be delayed. Because they failed to enact the Commerce, Justice, and State bill, $658 million in worldwide security upgrades at U.S. facilities, for instance, in Kabul, Afghanistan, are not available.

Mr. Speaker, the list goes on. The majority's failure to pass appropriation bills on time will delay funding for everything from construction at Veterans' Administration facilities to humanitarian assistance to the victims of genocide in Sudan, to additional funding for food safety inspections here at home.

Mr. Speaker, in February, former House majority leader, the majority leader in the last Congress, commented ''Republicans own the town now.'' What he meant was Republicans control the presidency, the House and the Senate. Democrats cannot stop and, frankly, cannot get it to go so that the failure lies solely at the desk and feet of the Republican leadership in both Houses. But everyone can see today their record is not an enviable one, notwithstanding the fact that they own the town. It is an embarrassment. The American people deserve better.

Mr. Speaker, as I said, I will vote for this continuing resolution. It was originally scheduled to be until October 8. The gentleman from Texas (Mr. DELAY) and I have a colloquy at the end of every week, and in that colloquy last week, I asked the gentleman from Texas (Mr. DELAY) how long this CR was going to be. He said he did not know specifically but he thought October 8. But they have decided, no, it will be November 20, after the election, after the American people will be able to make a judgment on what they are really going to do. How sad. How failing in our responsibility to this institution, to the American people and to our Nation.

And I thank the gentleman for yielding me this time.

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

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, the basic job of Congress is to pass the annual budget and appropriation bills in order to keep the government running and to fund the most important functions of government. To do that under our processes, we are first supposed to pass a budget resolution which sets the outline for spending for the coming year, and then we are supposed to follow that on by passing 13 appropriation bills which fill in the blanks in detail.

This continuing resolution is here because, on the domestic side of the budget, none of that has happened. We have passed only one of the 13 appropriation bills that were supposed to pass by the end of the fiscal year. That is for the Department of Defense. But even other national security bills have not been passed, and certainly, nothing has been passed that meets our obligations on the domestic side of the ledger.

The majority party controls this body by a very narrow margin. Ordinarily, if this institution were being run in a rational way, that would mean that the majority leadership would try to reach out, broaden its base of support for basic legislation by making an occasional compromise here and there so that we can broaden the number of people who are willing to support whatever products they bring to the floor. That has not happened either.

When I chaired this committee, we had a bipartisan allocation between the 13 subcommittees. Both parties agreed on how much should go into each of those 13 appropriation bills. That is why we were able that year to finish every single appropriation bill by the end of the fiscal year. The minority has not been afforded that opportunity this year because the majority leadership has been held captive by the most extreme members of the majority party caucus. As a result, they have produced highly ideological appropriation bills which have provided little incentive for other members of their own party to support those bills.

The domestic appropriations have been so stingy in the area of education, in the area of health care, in the area of veterans' health, in the area of law enforcement, and in the area of transportation that their Republican counterparts in the Senate have not wanted to pass those bills. If we take a look at the appropriation bills that have passed the Senate, those bills contain about $7 billion more on the domestic side of the ledger than the appropriation bills in this House. We could probably have reached bipartisan agreement if that $7 billion had been made available here. But oh, no, it was so necessary for the majority party to preserve every single dollar to provide $128,000 tax cuts for people who make a million bucks a year that they were not willing to provide additional funding in the area of health and education and the like.

So now we have what I call a duck-and-run approach to governance. The majority party does not want a vote on the level of veterans' health care funding, so the veterans' appropriation bill is not even coming to the floor. And the majority party is avoiding having to choose between the wishes on the Senate side and the wishes on the House side by simply going to a continuing resolution which ducks all of these questions until after the election. This strategy is being followed either by design or as the result of sheer incompetence, and I am not sure which.

I want to make it clear, as did the minority whip, that that does not apply to the gentleman who chairs the committee. He got every single bill out of his committee on time and passed them out of the House except for VA/HUD, and even though they were extremely short on necessary funding, on the minority side, we indicated that even though we strenuously objected to the stringent limitation of funding in a number of areas, we still procedurally cooperated with the majority party to toss those bills over to the Senate in the hopes that rationality would prevail and we would wind up with a product that could be supported when those bills came by the conference.

□ 1530

But at this point, I guess the bill that passed the House last week is a perfect metaphor for this session, because there was an internal triangular fight within the majority party in this House on that transportation bill, and, as a result, we passed a transportation bill that had been stripped of aid to states for highways, it had been stripped of the mass transit programs, it had been stripped of the funding for airport construction and development. So the only thing left in the transportation bill was the title of the bill.

If you take a look at other legislation, national parks, the President made a promise when he campaigned 4 years ago that he would send down a 5-year plan to attack the maintenance backlog in our national parks. Well, it is 4 years later, folks, and what has happened? The President and this Congress have provided only 12 percent of the funding needed to meet those backlog needs.

As the gentleman from Maryland indicated, we have done nothing to deal with the problems of 45 million Americans who have no health insurance. We have done nothing to expand Pell grants, even though the President in

his spectacularly disingenuous performance at the Republican Convention told the world that we needed more money for Pell grants, even though his administration has blocked the increase in Pell grants for the last 2 years.

So, Mr. Speaker, the fact that this continuing resolution is here today is a monument to ideological zealotry. It is also a monument to institutional failure. This Congress is failing to meet even the most basic and minimal expectations that the country has for it by way of doing our routine business. This is governing in a pitiful way, and I wish that I could say something more positive about it, but, indeed, I cannot.

We have no choice but to vote for this resolution in order to keep the government functioning, but this is a pitiful way to run a railroad or a legislative body.

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

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

Mr. Speaker, I think earlier my first comment was that I am doing something today that I am reluctant to do and I hoped I would not have to do it, and that is to ask the House to pass a continuing resolution inasmuch as the appropriations process has not been concluded.

There have been some criticisms of the majority party leadership in the House. It is easy to criticize anybody, but I would suggest that our leadership has done a pretty good job, considering the fact that we are a bicameral legislature. We have two bodies in this Congress, and one body cannot determine totally the legislative program, any more than the other one can. So as hard as our leaders have struggled to try to make the process work, they have had some difficulties with their counterparts in the other body.

I want to make sure that the Members know that the Committee on Appropriations, and I will repeat this from what I said earlier, completed all of its work, reported all of its bills, by the 22nd of July. That was quite a long time ago. We passed 12 of the appropriations bills, plus a supplemental. There is still one other appropriations bill remaining that has some difficulties that will be dealt with at a later time, probably in the omnibus bill.

And we have worked in a bipartisan fashion. We have tried to keep the minority party at the subcommittee level advised every step of the way. We have tried to make sure they knew what we were planning to do, and to get their input. We did not surprise anybody.

I think that good proof of that bipartisanship, Mr. Speaker, is that we have developed a pretty good record here in the committee and in the House. For example, our appropriations bill for Interior passed on June 17 with a vote of 334 to 86. The Homeland Security bill passed on June 18 with a vote of 400 to 5. On June 22 we passed the defense appropriations bill, 403 to 17. The conference report later was passed with a vote of 410 to 12. On June 25, the energy and water bill passed 370 to 16.

On the 8th of July the Commerce-Justice-State Department bill passed with a vote of 397 to 18. On July 12, the legislative branch bill passed with a vote of 327 to 43. The agriculture bill passed on the 13th of July, 389 to 31. On the 15th of July, the foreign ops bill passed 365 to 41. On the 20th of July, the District of Columbia bill passed 371 to 54. On the 22nd of July, the military construction bill passed 420 to 1.

We then passed on September 7 a supplemental to deal with Hurricane Charlie, which was devastating to certain parts of my State of Florida. We passed that on a voice vote. On the 9th of September we passed the Labor-HHS bill, 388 to 13. On the 22nd of September we passed the transportation appropriations bill, 397 to 12.

So I make the case that the House has worked together very well, majority party and minority party. The committee has worked together very well, majority party and minority party. But we are only half of the equation. We are the House of Representatives. We are the people's House. The other body, for whatever their reasons, did not pass these bills, and we cannot pass a bill in the House and send it to the President without having the other body agree to it, or at least go to conference and have an agreement on what that conference decides.

So, all in all, the criticisms of the House leadership I think are not really in order, but I understand that we are getting close to election time, so I am not offended by that. I just do not think that the criticisms really stand.

Our leadership has worked hard with us to pass these good bills with good votes. I do not like the fact that we did not complete our work. But I would say, again, the House Committee on Appropriations and the House of Representatives, we completed our work, except for one bill that will be held to become part of the omnibus appropriations bill. So, all in all, criticize if you like, but the House has done a really good job in getting its work done.

Now, because we have not concluded the bicameral work on these bills, it is important that we pass this continuing resolution. None of us want the government to shut down, and, without a CR, as of midnight tomorrow night the end of the fiscal year comes and goes, and without an appropriations bill, people would not be reporting to work on Friday.

So we are going to pass this CR now, the other body is going to pass this CR, and we are going to get it to the President in plenty of time so there will not be a government shutdown. We are just not going to do that anymore. We had an experience with that some years back. We are not going to do that again. That is not responsible, and it is important that we meet our responsibility.

Mr. Speaker, I would just appeal for a good strong vote on this continuing resolution. I ask for a ''yes'' vote.

Mr. Speaker, I yield back my time.

The SPEAKER pro tempore (Mr. FOLEY). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 802, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

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

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. OBEY. For the moment I am, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the joint resolution, H. J. Res. 107, to the Committee on Appropriations with instructions to report the same back to the House promptly with the following amendments:

At the end of the bill, add the following new section:

''SEC. . Section 2883(g)(1) of title 10, United States Code, is amended by striking '$850,000,000' and inserting '$1,350,000,000'.''

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

''SEC. . Notwithstanding section 101 of this joint resolution, amounts provided to the Department of Veterans Affairs under the heading ''Veterans Health Administration, Medical Services'' in Public Law 108–199, in the first proviso, delete '$17,867,220,000' and insert '20,798,600,000'.''

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

''SEC. . Notwithstanding any other provision of law or of this joint resolution, the State Children's Health Insurance Program authorized under title XXI of the Social Security Act shall be implemented under the terms and conditions of H.R. 4936, the Children's Health Protection and Improvement Act of 2004.''

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

''SEC. . Special Allowance for Loans From the Proceeds of Tax Exempt Issues—Section 438(b)(2)(B) of the Higher Education Act (20 U.S.C. 1087–1(b)(2)(B)) is amended—

''(1) in clause (iv), by inserting 'or refunded on or after October 1, 2004 and before October 1, 2005,' after 'October 1, 1993'.; and

''(2) by adding at the end the following new clause:

'' '(v) Notwithstanding clause (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for loans—

'' '(I) originated, transferred, or purchased between October 1, 2004 and October 1, 2005;

'' '(II) financed by an obligation that has matured, been retired, or defeased on or after October 1, 2004 and on or before September 30, 2005;

'' '(III) which the special allowance was determined under such paragraphs on or after October 1, 2004 and on or before September 30, 2005;

''(IV) for which the maturity date of the obligation from which funds were obtained for such loans was extended on or after October 1, 2004 and on or before September 30, 2005; or

''(V) sold or transferred to any other holder on or after October 1, 2004 and on or before September 30, 2005.'.''

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

''SEC. . Notwithstanding section 101 of this joint resolution, amounts provided to the Federal Bureau of Investigation for counterterrorism and counterintelligence activities shall be provided at a rate of operations which is the higher of the following:

''H.R. 4754, as passed by the House on July 8, 2004; or

''S. 2809 as passed by the Senate Committee on Appropriations on September 15, 2004.'.''

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

''SEC. . Notwithstanding section 101 of this joint resolution, amounts provided for education, health and other programs, projects and activities shall be continued at a rate of operations which is the higher of the amounts which would be made available under the following:

''H.R. 5006, as passed by the House of Representatives on September 9, 2004; or

''S. 2810 as reported by the Senate Committee on Appropriations on September 15, 2004.'.''

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

''SEC. . Public Law 108–217 shall be applied by substituting the date specified in section 107 of this joint resolution for 'September 30, 2004' each place it appears and by substituting the date specified in section 107 of this joint resolution for 'October 1, 2004' and the provisions of §6(a)(1) of Public Law 107–100 shall continue in effect through the date specified in section 107 of the joint resolution.''

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, if Members oppose this motion to recommit, they will deny 28,165 renovated homes for military families throughout the military housing privatization initiative. If they oppose this motion to recommit, they will deny many of America's veterans access to VA health care, which ought to be their right. This motion would provide an additional $2.5 billion above the President's request to help cut waiting lists, renovate crumbling VA facilities and ensure timely quality health care for America's veterans.

The FBI is the Nation's lead agency for domestic counterterrorism, yet it is the only component of our national security apparatus that will not have its funding for fiscal year 2005 in place. The motion would ensure that the FBI gets its funding now, not later.

Failure to pass this motion to recommit would also shut down the Terrorist Threat Integration Center and the Terrorist Screening Center. Neither received funding in last year's spending bill, so neither would have their funding extended by the continuing resolution without this motion.

The motion to recommit, Mr. Speaker, would also eliminate the nearly $1 billion in special student loan subsidies being paid to lenders that instead could be put to better use by helping students and families afford a college education. This House passed that amendment earlier this month on the Labor-HHS bill in the form of the Kildee amendment.

Also, Mr. Speaker, failure to pass this motion to recommit would deny health insurance to 750,000 children who could be covered under the State Children's Health Insurance Program, or SCHIP. Currently $1.1 billion of SCHIP funds are available to States to provide health insurance to children. These funds were accumulated while the SCHIP programs were just being organized, but current law requires that these funds be returned to the Treasury if they are not used by October 1. With more than 8 million children lacking health coverage, it makes sense to give States more time to use these funds and enroll children in the SCHIP programs. We ought not be robbing these funds from children's health insurance programs because of an arbitrary deadline.

We also by this motion would provide additional funding for education and health care programs funded by the Labor-HHS-Education bill. We ask that in each case in the education and health area that this bill be adjusted to reflect the higher of the numbers between the House and the Senate bill. The result of that, for instance, would be to add $367 million to NIH to maintain momentum in research on diseases like cancer, Parkinson's, Alzheimer's, et cetera. We also would try to deal with the section 7 small business loan program that was dealt with by this House on a similar motion several weeks ago.

Mr. Speaker, I would urge support for the motion to recommit.

Mr. YOUNG of Florida. Mr. Speaker, I am opposed to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, this motion to recommit actually would be an appropriations bill. The continuing resolution merely extends existing appropriations. All of the issues in this motion are in the process of being considered on regular appropriations bills.

□ 1545

For example, I would remind the Members that we had the issue of the military housing cap in our appropriations bill that our committee strongly supported; but on a point of order raised by the Committee on the Budget, we lost that section of the military construction bill. But as we produce the military construction bill in conference, that provision will be in there.

The other issues in this motion are VA medical, children's health, higher education; all of these issues are being addressed as we address the balance of the appropriations bills.

So this motion to recommit, if it were successful, and I hope it will not be, would actually turn this into an appropriations bill that would likely require conferencing and probably would not be concluded by midnight tomorrow night, just because of the amount of time it takes to conference a bill and go to the other body and then come back here for conference, and then to appoint the conferees. We are running a deadline as of midnight tomorrow night.

So I would hope that while all of these are very important issues in this motion, and, frankly, I am supportive of all of the issues that the gentleman from Wisconsin (Mr. OBEY) would have in this motion to instruct, this is not the place to do it. This is a continuing resolution that has to be on the President's desk and signed before midnight tomorrow night. We just really do not have the time to deal with these issues on this bill. We will deal with all of those issues on the other bills that will be working through the Congress in the next few weeks.

So, Mr. Speaker, having said that, basically all I can say is that I would urge the Members to oppose this motion and to get on with the passage of the continuing resolution.

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

The SPEAKER pro tempore (Mr. FOLEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 200, nays 221, not voting 11, as follows:

[Roll No. 478]

YEAS—200

| | | |
|---|---|---|
| Abercrombie | Berman | Brown, Corrine |
| Ackerman | Berry | Butterfield |
| Allen | Bishop (GA) | Capps |
| Andrews | Bishop (NY) | Capuano |
| Baca | Blumenauer | Cardin |
| Baird | Boswell | Cardoza |
| Baldwin | Boucher | Carson (IN) |
| Becerra | Boyd | Carson (OK) |
| Bell | Brady (PA) | Case |
| Berkley | Brown (OH) | Chandler |

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

NAYS—221

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

NOT VOTING—11

Boehlert
Cannon
Gephardt
Hastings (FL)
Hoeffel
Lewis (GA)
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1610

Mr. PETERSON of Pennsylvania changed his vote from ''yea'' to ''nay.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the joint resolution.

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

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 389, noes 32, not voting 11, as follows:

[Roll No. 479]

AYES—389

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barton (TX)
Bass
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry

Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—32

Akin
Barrett (SC)
Bartlett (MD)
Beauprez
Chabot
Cooper
Cubin
Duncan
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Green (WI)
Gutknecht
Hensarling
Hostettler
Jones (NC)
King (IA)
Manzullo
Miller (FL)
Myrick
Paul
Pence
Petri
Pitts
Royce
Ryan (WI)
Sensenbrenner
Shadegg
Smith (MI)
Stearns
Toomey

NOT VOTING—11

Boehlert
Brown-Waite, Ginny
Cannon
Gephardt
Hastings (FL)
Hoeffel
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1619

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

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). 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 tomorrow.

## WELFARE REFORM EXTENSION ACT, PART VIII

Mr. HERGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5149) to reauthorize the Temporary Assistance For Needy Families block grant program through March 31, 2005, and for other purposes.

The Clerk read as follows:

H.R. 5149

*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 ''Welfare Reform Extension Act, Part VIII''.

**SEC. 2. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH MARCH 31, 2005.**

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through March 31, 2005, in the manner authorized for fiscal year 2004, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2005 at the level provided for such activities through the second quarter of fiscal year 2004.

(b) CONFORMING AMENDMENTS.—

(1) SUPPLEMENTAL GRANTS FOR POPULATION INCREASES IN CERTAIN STATES.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking ''September 30, 2004'' and inserting ''March 31, 2005''.

(2) CONTINGENCY FUND.—Section 403(b)(3)(C)(ii) of such Act (42 U.S.C. 603(b)(3)(C)(ii)) is amended by striking ''2004'' and inserting ''2005''.

(3) MAINTENANCE OF EFFORT.—Section 409(a)(7) of such Act (42 U.S.C. 609(a)(7)) is amended—

(A) in subparagraph (A), by striking ''or 2005'' and inserting ''2005, or 2006''; and

(B) in subparagraph (B)(ii), by striking ''2004'' and inserting ''2005''.

**SEC. 3. EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH MARCH 31, 2005.**

Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through March 31, 2005, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2005 at the level provided for such activities through the second quarter of fiscal year 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

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

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume, and I rise today in support of H.R. 5149, the Welfare Reform Extension Act, Part VIII. Why Part VIII? Because, unfortunately, we are here again for the eighth time to pass short-term legislation that simply continues the status quo for one of our most important social assistance programs.

Mr. Speaker, this bill will continue funding for the Temporary Assistance For Needy Families program and other related programs that assist low-income families through March 31, 2005. I support this legislation, but as I have said before and will say again today, I wish we were here today to vote on comprehensive, forward-looking legislation like the House has already approved and the President has supported.

In his convention speech, President Bush said, ''Because family and work are sources of stability and dignity, I support welfare reform that strengthens family and requires work.'' In his call for more work and stronger families, House Republicans stand with the President. That is why we approved comprehensive welfare reform legislation twice in the last 2 years, bills that promote more work and stronger families.

Unfortunately, the other body has not yet passed its own bill, and many on the other side of the aisle continue to oppose more welfare reforms designed to promote work and reduce dependence and poverty. Why do some continue to ignore the three overwhelming lessons of the 1996 welfare reform law?

Lesson one: Real welfare reform means more work, less dependence, and less poverty.

Lesson two: Real welfare reform means stronger families and more healthy marriages, improving children's prospects for the future.

Lesson three: Real welfare reform frees up money from welfare checks that is better spent on services like child care so families can support themselves.

Perhaps one reason for the Democrats' opposition to more welfare reform is that many on that side of the aisle opposed real welfare reform all along. Since Congress started voting on welfare reform bills in the mid-1990s, there have been eight major votes in this House. During that time, Democrats collectively registered 1,392 votes against welfare reform and only 188 votes for it. Eighty-eight percent of the time congressional Democrats have opposed welfare reform bills. Half of the Democrats even opposed the landmark 1996 welfare reform law. On those same votes, an overwhelming 98 percent of the Republicans supported welfare reform.

The debate in the past 2 years has been a reminder of what we saw in the mid-1990s. Whatever their reasons, whether it is because they oppose requiring a 40-hour work week of welfare recipients, like other American families, or they oppose promoting stronger families and healthy marriages, or insist on billions more in welfare spending despite the reduced caseload, some have consistently opposed meaningful updates to welfare reform. That is despite the obvious success of welfare reform since 1996, and despite the obvious need to make adjustments that would help the 2 million families still on welfare achieve independence and better lives.

That is precisely what the legislation passed by the House twice, and supported by the President, achieves. Those who oppose this legislation also continue to ignore letters from the States urging forward movement on a long-term authorization. Most recently, the State of New York sent a letter to their Members in the other body and said, ''In these very difficult budget cycles, delaying TANF reauthorization until the next congressional session will certainly jeopardize the current block grant funding level of $16.5 billion currently maintained in both the House and Senate bills, and the Senate-passed $7 billion child care

amendment, which will annually support over 70,000 additional children of New York's working parents.''

Mr. Speaker, now is the time to act, but today we are here to pass yet another piece of short-term legislation that only maintains the status quo. Unfortunately, this placeholder does exactly what the States fear: places any reforms of additional funding in jeopardy.

Just yesterday, I heard from representatives from my own State of California that continued extensions are standing in the way of more welfare reform there. In short, States serving families on welfare are unable to take the next steps to help them achieve independence when there is not certainty of funding and clear goals are not established. Passing the legislation before us today is a necessary step, since we need to help States keep writing welfare checks to 2 million families.

What more we should be doing is obvious: expecting and supporting more work instead of simply supporting more welfare checks. House Republicans supported the President and have twice passed legislation designed to help more parents know the dignity of drawing a paycheck instead of a welfare check. Others who oppose that next step must explain why they continue to block forward movement.

Mr. Speaker, before I conclude, I would like to mention an individual who has been a tremendous asset in our efforts to reform these programs, Ms. Vee Burke. As my statement reflects, Ms. Burke will be retiring from the Congressional Research Service this year after more than 30 years of service to the Members and their staff. Ms. Burke joined CRS in 1970 as a recognized expert in the field of public welfare. For more than three decades she has worked diligently and professionally to assist us with our efforts. Her contributions and knowledge of these programs have had a direct, positive impact on the lives of millions of families and children. We will miss her and we wish her well and thank her for her many years of service.

Mr. Speaker, today I'd like to pay tribute to Vee Burke, a policy specialist in low-income programs at the Congressional Research Service. Ms. Burke joined CRS more than 30 years ago as a recognized expert in the field of public welfare. Much to the regret of many Members of Congress and their staff, Ms. Burke will retire at the end of November.

During her tenure at CRS, Ms. Burke became a leading expert on the history, evolution, and interaction of welfare and public assistance programs for low-income individuals and families. Over three decades, Ms. Burke has played a role in all major congressional deliberations affecting low-income individuals including the sweeping welfare reforms enacted in 1996. Largely considered the most significant social policy change in the past 60 years, Ms. Burke's in-depth knowledge of low-income programs and her tireless efforts to assist Members and their staff with this legislation were instrumental in our success.

Because of her stature as one of the leading authorities in the country in this policy area, Ms. Burke's advice and assistance has been regularly sought by the congressional committees with legislative jurisdiction. She has offered expert testimony and authored numerous reports that have served as the basis for legislation considered by Congress. Her most unique contribution is the series of CRS reports entitled Cash and Noncash Benefits for Persons with Limited Income that she began in 1976. This initially annual and more recently biennial report provides detailed and comprehensive information and statistics on program rules, participation and spending for some 80 means-tested Federal programs. Ms. Burke also has been a key contributor to the House Ways and Means Committee Green Book since that report's inception in 1981. Anyone who has used either of these resources understands the amount of time and effort that such significant undertakings require, but also appreciate the value and contributions they make to our efforts to assist low-income families.

Ms. Burke is respected and admired by congressional staff and Members, by her colleagues within CRS, and by the broader research and policy community. Her contributions have had direct impact on the lives of millions of Americans. I ask my colleagues to join me in thanking her for her service and I wish her all the best in her future endeavors.

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

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

Mr. Speaker, only in this body with Republican leadership can they blame everyone but themselves. Even though they control this body, the other body, and the White House, they seem to blame everybody else for the failure to enact the reauthorization of welfare. Only in this body.

And then my distinguished chairman says that our States want us to pass a long-term reauthorization. And the chairman is absolutely right, but they do not want us to pass the bill that passed this body because it would take us backwards in welfare rather than forward in reform.

I do appreciate the fact that the distinguished chairman at least had the title of the bill accurately reflect what we are doing here, and that is Welfare Reform Extension Act, Part VIII. Eight times in the last 2½ years we have had short-term extensions because of the failure of the Republican leadership to work for a bill that would build on the work that was done in 1996 to give our States the flexibility they need in order to implement welfare reform and give them the resources they need. Instead, we have a bill that passed this body that was anything but bipartisan. In fact, we never even had hearings in our committee. We had a markup, but no hearings in this Congress because of the failure to really reach out and try to do something that could be enacted into law.

So, Mr. Speaker, I am terribly disappointed that we are again looking at an extension. I support this bill, so my distinguished chairman and I are in agreement, we do not want to see this program lapse. It is an important program. It extends not only the TANF program but several related programs, including child care and development block grants and transitional Medicaid assistance for people leaving welfare to work.

I agree with those who say we should be doing more, much more. After all, over the last 3 years, the number of Americans in poverty has grown by 4.3 million. Last year alone, another 700,000 children fell into poverty.

□ 1630

Meanwhile, funding for several antipoverty programs, including TANF, child care and social services block grant and job training through the Workforce Investment Act have declined by $1.7 billion in real terms over the last 3 years. In short, we are responding to rising poverty with declining assistance.

Regrettably, the long-term welfare authorization plan put forward by my Republican colleagues largely ignores this problem. Instead, they have suggested poverty is rising because welfare recipients are not working hard enough. However, this suggestion falls flat when we consider one basic fact: The welfare rolls have continued to decline even though our poverty rates have grown.

The problem is not the unwillingness of people on welfare to work; the problem is that too many of these people leaving welfare are not finding employment, or they are finding jobs which do not lift them out of poverty.

We could help by providing more child assistance and job training, but so far the majority and President Bush have resisted such reforms.

While obviously an imperfect response, temporarily extending TANF funds is certainly better than fundamentally dismantling the successful parts of the 1996 welfare reform law such as providing our States and communities with the flexibility to determine how to best move welfare recipients into the work force. Therefore, I support this legislation to maintain necessary funding for several poverty programs over the next 6 months in the hopes that we can pass a more comprehensive improvement next year.

One area that Congress must focus on next year is providing access to affordable child care, which is undoubtedly one of the biggest problems confronting low-income working families.

Mr. Speaker, the price of child care can easily range between $4,000 and $10,000 per year per child. It is no wonder that the Urban Institute found that families in poverty with day-care expenses spent almost a quarter of their earnings on child care. Unfortunately, many States have cut back on child care assistance because of recent budget shortfalls. This problem has been documented by the General Accounting Office and more recently in a report by the National Women's Law Center.

Their study found that between 2001 and 2004, three-fifths of our States made child care eligibility more restrictive. Half the States raised their copayments on low-income families, waiting lists for those eligible for aid but not receiving it grew in more than a dozen States.

My own State of Maryland has frozen enrollment in child care for working families. In other words, the only way in Maryland that families can get child care assistance is to go on welfare. What a message.

Instead of helping to address this problem, the Federal Government has not even allowed child care funding to maintain the pace with inflation over the last 2 years. The long-term TANF reauthorization bill passed by this body earlier this session will simply continue this disturbing trend by reducing the real value of child care assistance. We can and should do better for America's struggling families.

Mr. Speaker, there is much work to be done, but in the meantime I urge support for this temporary extension of funding for several poverty-related programs for the eighth time in the last 2.5 years. Like the past seven extensions, this bill simply continues current law without including any new controversial policy changes.

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

Mr. HERGER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the subcommittee and author of the welfare reform legislation which has done such an incredible job of bettering families.

Mr. SHAW. Mr. Speaker, we are coming again to a crossroads, and why it is that we cannot move this bill ahead in an orderly fashion instead of bits and pieces and jumping all around absolutely escapes me.

The bill that my colleague from California has crafted which has passed this House now on several occasions increases the child care which is so necessary for the single moms struggling to go to work. We want to be sure their kids are taken care of and they are not in the street, and we have increased the funding substantially.

When we look at what we are spending on each welfare recipient, because of the amount of welfare recipients going down and the funding not going down, we are spending well over twice as much on each welfare recipient for job training to get them on their feet and to get them to be productive human beings.

This bill and the bill referred to by the gentleman from California (Mr. HERGER) and the Committee on Ways and Means which has passed this House on several occasions gets to the other side of the Capitol and it is blocked. The other body has constantly talked this bill down and has prevented a vote on the floor of the other body, which is too bad.

Mr. Speaker, we are seeing pre-1996 all over again. One of the proudest accomplishments of this body which I can remember so well culminated on August 22, 1996, when the President actually signed the bill. He opposed it and vetoed it twice, but when it got to him the third time, while the debate was going on in this Chamber, went on national television and indicated his support for this bill. And much to his credit, he signed it.

It was very controversial then. There were massive resignations within the White House in protest of President Clinton having signed this bill. Much to the credit of those who stayed on, including Ms. Shalala who is now President of the University of Miami where the debates are going to be tomorrow night, although she was opposed to it, she saw to it and did the best to see that it worked, and it did work.

It worked not only because we had faith in the human spirit, but also at the end, even though there was bitter partisan bickering to get it to the floor and to get the vote, in the end there was bipartisan support with a Democrat President signing a Republican bill.

We can do better. Let us pass this particular bill because we still have the other problem in the other body, but let us move ahead and let us in the next Congress come back and pass the next generation of welfare reform, and that is the bill that the gentleman from California (Mr. HERGER) has been cosponsoring and working on.

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

Mr. Speaker, I listened to the gentleman from Florida (Mr. SHAW) and I agree with almost everything he said. In 1996 we were able to pass a bill by working together as Democrats and Republicans, and I am amazed that the bill that the Republican leadership has been advancing in this Congress would take us backwards, take away the discretion of our States to deal with the welfare programs. That presumes that some of our States are not capable of dealing with it. In 1996 we trusted our States, and it worked.

Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means and a Member who has worked on welfare reform since he has been in Congress.

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

Mr. LEVIN. Mr. Speaker, I want to briefly review the history of welfare reform, not to finger point, but to have us understand what this is all about.

The gentleman from Florida (Mr. SHAW) said, pointing to 1996, that the third time around, the President agreed to it. What he forgot to say was that there were three bills and that they changed from bill to bill. Many Democrats worked to change those bills so that they would be acceptable. The third time around it was different because it included more adequate health care and also more adequate day care. Neither was taken care of appropriately in the first two times around. That is point one.

So it was a bipartisan product. The President, President Clinton, had kicked off the effort years before, and eventually we worked together to produce a product.

My next point, as the gentleman from Maryland (Mr. CARDIN) has so clearly pointed out, it has been different this time around in terms of this product that came through the House. It has not been a bipartisan product whatsoever. Instead, what the majority has been trying to do is really to rewrite the 1996 welfare reform bill, as the gentleman from Maryland (Mr. CARDIN) has pointed out, to turn the clock back on provisions of that bill, and to do so despite the fact that the research that has been undertaken since passage in 1996 indicates that what is in the House-passed bill is wrong in important respects, and that is why the Senate has failed to act.

First of all, in terms of people moving up the economic ladder, the evidence is clear that a majority of people who have moved from welfare to work earn less than 42 percent of the median average wage in their States. And also these studies make clear that the most successful programs focus on getting people better jobs and increasing their earnings. Former welfare recipients with higher starting wages were 40 percent more likely to still be working 2 years later and those with child assistance were twice as likely to work for 2 years.

So that is why the National Governors Association, when they canvassed the welfare directors, found that 40 of them said that the fundamental changes in the Republican bill were wrong; or to put it another way, that the Republican bill would force fundamental changes in the successful welfare programs. And the researcher who has done so much of the federally funded research on welfare-to-work strategies said that the House Bush administration plan would force the most successful programs to change substantially. So that is what this is all about.

We passed a bill that would, instead of emphasizing people moving off of welfare into work and as they moved, moved up the ladder, would emphasize people on welfare working. The whole point is to help people and get them to move off of welfare and to stay off of welfare.

So in our bill the Democrats proposed a very different approach than the Republicans here in the House. In our bill, States would be rewarded for helping recipients move off of welfare and to get into good-paying jobs, and also trying to fix the transitional Medicaid program, to try to get more health care available for people so when they moved off of welfare, they did not lose it, they would instead continue it for 6 months or a year. Also we proposed in our bill full funding to the social services block grant program.

Let me finish by saying I support the extension. It is better than a bad bill that passed the House, but on child care, the record should be straight: We proposed $11 billion more, the Senate $7 billion, and the House Republican bill won. If child care is not provided, it is going to be difficult for people to move off of welfare into productive work that will move them and help move up the ladder, and that is the true test of welfare reform, people moving off welfare out of poverty and into work.

□ 1645

The gentleman from Maryland has led the effort to emphasize that with the support of Democrats. I am proud to be part of that. We need a bipartisan effort in this House, not ramming or cramming through a bill without ever there being an effort within our subcommittee to produce a bipartisan product. There is hope, but not the Republican bill. Let us vote for the extension and do much better after November 2.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume. I would just like to respond. We hear the other side, the Democrats, indicating, and I have heard them indicate this over and over, that somehow there was bipartisan support, that somehow the Democrats worked with the Republicans. But if we look at what the votes were, we find an entirely different result completely.

For example, in 1995 on our Committee on Ways and Means, zero votes came from Democrats the first bill that came through. The second bill coming through, again, zero Democrats on the Committee on Ways and Means supporting it. Again, where is this bipartisan support? Finally, the third bill that finally after President Clinton vetoed it twice, the third time around, the bill coming through the same Committee on Ways and Means, the first time through all the Democrats except one voted against it. Then the conference committee, over half of the Democrats on the Committee on Ways and Means still voted against it. And on the House floor the Democrats, over half of them voted against it.

So I am not quite sure where all this bipartisan support is. It seems that the Democrats came kicking and screaming all the way to having the welfare reform.

Let me also refer to this book. They indicate that there is not enough money. Let me quote from how a recent book by New York Times welfare reporter Jason DeParle puts it: ''Falling caseloads brought one problem States welcomed. It left them rolling in dough. States literally had more money than they knew how to spend. Over 6 years, States collected $59 billion more than they could have under the previous system, when falling caseloads brought reduced Federal dollars. Having promised to do more with less, the Governors wound up with more, much more, than anyone imagined.'' That is on page 215 from this book. Again, the facts do not meet the reality of what we are hearing from the other side.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON) who has been an active member of the committee on this legislation.

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding me this time.

Mr. Speaker, the goal of TANF, that is, welfare reform, was always twofold: first, it was to help women who had children and no means of support and therefore were dependent on welfare to regain their economic independence by entering the workforce. That goal was for the woman, so she could realize her greatest potential, she could gain control of her life by being economically self-sufficient. And then the second goal was to lift her and her children out of poverty, occasionally he and his children out of poverty.

Those twin goals of helping women on welfare to realize their skills, their potential, their capabilities to gain economic self-sufficiency and to raise children out of poverty were goals that we all shared, both sides of the aisle; but they were goals that were achieved by the structure of the bill that the Republicans crafted and passed and which at the time was extremely controversial.

But it did work. Two million children have been lifted out of poverty. According to the census, the poverty rate for African American children and the poverty rate for children living with single mothers hit a record low in 2001 and 2002. So then the question becomes, What happened during the years of recession since 2001 and 2002? We all know that a recession was in progress when this President was sworn into office and then the economy was terribly jolted by 9/11 and unemployment rates soared and so on.

Yet when we look back, these are the facts. First of all, starting from the overall understanding that poverty in a recession and child poverty in a recession does rise. Two years after the 1990–1991 recession, 15.7 million children were in poverty in 1993, or 22.7 percent of the children were in poverty in 1993. That was after the 1990–1991 recession. Two years after the 2001 recession, 12.9 million children were in poverty, or 17.6 percent were in poverty in 2003.

In other words, in this more recent recession, after welfare reform, yes, more children were in poverty. But far fewer were in poverty than had been in poverty 10 years earlier after the 1990 recession. In fact, 17.6 percent were in poverty in 2003, 22.7 percent had been in poverty in 1993. So there are 2.8 million fewer children in poverty now than there were in the preceding economic cycle.

While it is tragic to see poverty numbers go up, we need to put them in the context of this economy and of welfare reform because, in fact, welfare reform has been so successful in reducing child poverty that even with the rise in child poverty during this recent recession, it is still well below what it was 10 years ago.

Let me just add one other point and that is, it is really a shame that this is not the reauthorization rather than a 6-month extension. In the reauthorization, we do provide far better opportunity for women to get the education they need, not just to get into the workforce but to get up the career ladder.

Furthermore, in the reauthorization we recognize what has become a very real problem and that is that many of the women who are really stuck on welfare now are women who need to have better access to either drug treatment programs of a longer term sort or to mental health programs. Both of those kinds of treatment programs we count as work in the extension bill.

The next round of TANF reform will enable us to meet the challenge of improving the educational support and being more realistic about the health services necessary to help women become self-sufficient and their children to do better and the whole family to rise out of poverty. So it is unfortunate that we are not moving on reauthorization rather than extension, but extension certainly beats letting the current law expire because it has done wonderful things for women in America, allowing them to realize their potential and think about their skills and abilities with the help of supportive programs, and it has certainly lifted many children out of poverty. I urge support of this legislation.

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I want to say to the chairman of the subcommittee, if he persists in distorting the record, he is going to continue to make less likely improvement of welfare reform. I am sorry he is not listening, but I will say this for the record.

When welfare reform bills were considered, there were differences. But at important places we proposed alternatives and Democrats voted for them. March 24, 1995, 205 Democrats supported essentially a substitute that was proposed by someone who was then a member of the Democratic Caucus. That was March of 1995. Then if you go over to later on, there was in July 1996 when welfare reform was considered on the floor an alternative proposed by the gentleman from Tennessee (Mr. TANNER) and the gentleman from Delaware (Mr. CASTLE). It received 168 votes.

His attempt to really grab the welfare reform flag and deny the involvement of President Clinton who suggested we end welfare as we then knew it, I think he is now suggesting that we change welfare reform backwards. That effort of his I think only diminishes the chances that we can move welfare reform ahead. His trying to make this

into a partisan issue instead of a chance for bipartisan working together is really antithetical to the needs of the people of this country for further welfare reform. I hope the next time around, he does not sing the same song.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, here we go again. Instead of making this TANF law better, instead of giving welfare recipients the tools to move from welfare to self-sufficiency, we are once again renewing, for the eighth time renewing it, actually, a bill that continues moving families from welfare further into poverty.

Instead, we should be making education or training count as work so that that activity for welfare recipients will help them get ready for better educational opportunities and job training so they can have better opportunities for earning a salary that pays a livable wage. They will not get that unless they have education and training. Instead of again extending an outdated welfare bill, we should be providing quality child care, child care that includes more care for infants, child care that extends to parents who work weekends and evenings. That is what we need. That is what these parents need. That is what they need to help them get their jobs and become self-sufficient.

Let us face it, if parents do not have a safe, convenient place to leave their children, they cannot go to work. Believe me, I know, because over 30 years ago I was a single mother with three small children, abandoned by their father; and even though I was working full-time, I needed welfare, aid for dependent children at that time, to keep our lives together, to get my children the health care, the child care they needed. But eventually I worked my way out of poverty and started my own business before running for Congress. Of course, you have to know that I believe that others should have the same opportunities that I had.

While I support this short-term extension as necessary, I want us to begin to work to authorize a bill that will give workers the training and the education and the child care that they need so that they can be successful. They need the same kind of opportunities that I was afforded 30 years ago.

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, let me just rise and talk about how I on the other side am concerned about our situation now. We are concerned. The census reported just this month in August, 36 million Americans living in poverty, more than ever in recorded history. Forty-five million without access to health insurance. And we are saying we have a good program? This is the most powerful country in the world. Yet we find a large number that still reside in poverty. At the same time we are choosing to cut back in education. We are choosing to say no, when the administration shook hands on Leave No Child Behind.

That Republican compassionate conservatism is self-proclaimed compassionate conservatism because it is not one for allowing young people an opportunity to be able to further their education, to make sure they do not go onto welfare. During the last 4 years, we have lost more jobs than ever recorded. Those jobs that we have gained have been jobs that have paid much less than the ones that we have lost.

□ 1700

So the reality is that we have had an opportunity to make some things happen, and they failed to do that.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Maryland (Mr. CARDIN) has 1½ minutes remaining.

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

Mr. Speaker, I use that 1½ minutes first to join the gentleman from California (Mr. HERGER) in recognizing the outstanding work that Vee Burke has provided for more than 30 years at the Congressional Research Service.

Vee has helped our committee conduct its work on poverty and public assistance issues by providing detailed and meticulously accurate information on program rules, participation and trends. Since 1981, she has been a regular and valued contributor to the Ways and Means Green Book, which is the key resource on poverty programs for Members of Congress and their staff.

Vee's expertise on welfare issues started during the Nixon administration and has continued through all major developments thereafter, including the 1996 welfare reform law and our current efforts to reauthorize that law. Her work has provided a foundation of understanding needed to improve our Nation's safety net programs.

We wish Vee well in her pending retirement, and we thank her for her contributions to improving social programs in our great Nation. Mr. Speaker, I can assure the Members that the gentleman from California (Mr. HERGER) and I are in complete agreement in regards to Vee Burke's contributions to this body and to this Nation and also urging our colleagues to support this legislation.

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

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

Mr. Speaker, in February of 2003, this House passed long-term reauthorization legislation to encourage more work among welfare recipients and to provide more federal dollars for States to assist low-income families. The other body's unwillingness to work with us to move this legislation forward has resulted in lost resources to the States and 2 years of lost opportunity to provide more assistance so more low-income parents can make the transition from welfare to work.

I wish the legislation before us today were not needed. As I have said before, I wish we were here debating a long-term reauthorization bill. But we do need to pass this legislation. Therefore, I urge all of my colleagues to support this bill.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 5149.

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. CARDIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. HERGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 5149, the bill just considered.

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

There was no objection.

## REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINDER (during debate on H.R. 5149) from the Committee on Rules, submitted a privileged report (Rept. No. 108–709) on the resolution (H. Res. 807) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

## VETERANS HEALTH PROGRAMS AND FACILITIES ENHANCEMENT ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4768) to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4768

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

**SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.**

*(a) SHORT TITLE.—This Act may be cited as the ''Veterans Health Programs and Facilities Enhancement Act of 2004''.*

*(b) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.*

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

*Sec. 1. Short title; references to title 38, United States Code; table of contents.*

*TITLE I—MEDICAL FACILITIES MANAGEMENT*

*Sec. 101. Major medical facility leases.*
*Sec. 102. Department of Veterans Affairs Capital Asset Fund.*
*Sec. 103. Annual report to Congress on inventory of Department of Veterans Affairs historic properties.*
*Sec. 104. Authority to use project funds to construct or relocate surface parking incidental to a construction or nonrecurring maintenance project.*
*Sec. 105. Inapplicability of limitation on use of advance planning funds to authorized major medical facility projects.*
*Sec. 106. Improvement in enhanced-use lease authorities.*
*Sec. 107. Extension of authority to provide care under long-term care pilot programs.*

*TITLE II—OTHER MATTERS*

*Sec. 201. Inclusion of all enrolled veterans among persons eligible to use canteens operated by Veterans' Canteen Service.*
*Sec. 202. Enhancement of medical preparedness of Department.*

## TITLE I—MEDICAL FACILITIES MANAGEMENT

**SEC. 101. MAJOR MEDICAL FACILITY LEASES.**

*(a) AUTHORIZED LEASES.—The Secretary of Veterans Affairs may enter into contracts for major medical facility leases at the following locations, in an amount for each facility lease not to exceed the amount shown for that location:*

*(1) Wilmington, North Carolina, Outpatient Clinic, $1,320,000.*

*(2) Greenville, North Carolina, Outpatient Clinic, $1,220,000.*

*(3) Norfolk, Virginia, Outpatient Clinic, $1,250,000.*

*(4) Summerfield, Florida, Marion County Outpatient Clinic, $1,230,000.*

*(5) Knoxville, Tennessee, Outpatient Clinic, $850,000.*

*(6) Toledo, Ohio, Outpatient Clinic, $1,200,000.*

*(7) Crown Point, Indiana, Outpatient Clinic, $850,000.*

*(8) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000.*

*(9) Plano, Texas, Collin County Outpatient Clinic, $3,300,000.*

*(10) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000.*

*(11) Corpus Christi, Texas, Outpatient Clinic, $1,200,000.*

*(12) Harlingen, Texas, Outpatient Clinic, $650,000.*

*(13) Denver, Colorado, Health Administration Center, $1,950,000.*

*(14) Oakland, California, Outpatient Clinic, $1,700,000.*

*(15) San Diego, California, North County Outpatient Clinic, $1,300,000.*

*(16) San Diego, California, South County, Outpatient Clinic, $1,100,000.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2005 for the Medical Care account, $24,420,000 for the leases authorized in subsection (a).*

*(c) AUTHORITY FOR LEASE OF CERTAIN LANDS OF UNIVERSITY OF COLORADO.—Notwithstanding section 8103 of title 38, United States Code, the Secretary of Veterans Affairs may enter into a lease for real property located at the Fitzsimons Campus of the University of Colorado for a period up to 75 years.*

**SEC. 102. DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET FUND.**

*(a) ESTABLISHMENT OF FUND.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:*

***''§ 8118. Authority for transfer of real property; Capital Asset Fund***

*''(a)(1) The Secretary may transfer real property under the jurisdiction or control of the Secretary (including structures and equipment associated therewith) to another department or agency of the United States or to a State (or a political subdivision of a State) or to any public or private entity, including an Indian tribe. Such a transfer may be made only if the Secretary receives compensation of not less than the fair market value of the property, except that no compensation is required, or compensation at less than fair market value may be accepted, in the case of a transfer to a grant and per diem provider (as defined in section 2002 of this title). When a transfer is made to a grant and per diem provider for less than fair market value, the Secretary shall require in the terms of the conveyance that if the property transferred is used for any purpose other than a purpose under chapter 20 of this title, all right, title, and interest to the property shall revert to the United States.*

*''(2) The Secretary may exercise the authority provided by this section notwithstanding sections 521, 522 and 541–545 of title 40. Any such transfer shall be in accordance with this section and section 8122 of this title.*

*''(3) The authority provided by this section may not be used in a case to which section 8164 of this title applies.*

*''(4) The Secretary may enter into partnerships or agreements with public or private entities dedicated to historic preservation to facilitate the transfer, leasing, or adaptive use of structures or properties specified in subsection (b)(3)(D).*

*''(5) The authority of the Secretary under paragraph (1) expires on the date that is seven years after the date of the enactment of this section.*

*''(b)(1) There is established in the Treasury of the United States a revolving fund to be known as the Department of Veterans Affairs Capital Asset Fund (hereinafter in this section referred to as the 'Fund'). Amounts in the Fund shall remain available until expended.*

*''(2) Proceeds from the transfer of real property under this section shall be deposited into the Fund.*

*''(3) To the extent provided in advance in appropriations Acts, amounts in the Fund may be expended for the following purposes:*

*''(A) Costs associated with the transfer of real property under this section, including costs of demolition, environmental remediation, maintenance and repair, improvements to facilitate the transfer, and administrative expenses.*

*''(B) Costs, including costs specified in subparagraph (A), associated with future transfers of property under this section.*

*''(C) Costs associated with enhancing medical care services to veterans by improving, renovating, replacing, updating, and establishing patient care facilities through construction projects to be carried out for an amount less than the amount specified in 8104(a)(3)(A) for a major medical facility project.*

*''(D) Costs, including costs specified in subparagraph (A), associated with the transfer, lease or adaptive use of a structure or other property under the jurisdiction of the Secretary that is listed on the National Register of Historic Places.*

*''(c) The Secretary shall include in the budget justification materials submitted to Congress for any fiscal year in support of the President's budget for that year for the Department specification of the following:*

*''(1) The real property transfers to be undertaken in accordance with this section during that fiscal year.*

*''(2) All transfers completed under this section during the preceding fiscal year and completed and scheduled to be completed during the year during which the budget is submitted.*

*''(3) The deposits into, and expenditures from, the Fund that are incurred or projected for each of the preceding fiscal year, the current fiscal year, and the fiscal year covered by the budget.''.*

*(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8117 the following new item:*

*''8118. Authority for transfer of real property; Capital Asset Fund.''.*

*(b) INITIAL AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)), the amount of $10,000,000.*

*(c) TERMINATION OF NURSING HOME REVOLVING FUND.—(1) Section 8116 is repealed.*

*(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.*

*(d) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving fund under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)).*

*(e) PROCEDURES APPLICABLE TO TRANSFERS.—(1) Paragraph (2) of section 8122(a) is amended to read as follows:*

*''(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.''.*

*(2) Section 8122(d) is amended—*

*(A) by inserting ''(1)'' before ''Real property''; and*

*(B) by adding at the end the following new paragraph:*

*''(2) The Secretary may transfer real property under this section, or under section 8118 of this title if the Secretary—*

*''(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);*

*''(B) holds a public hearing;*

*''(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and*

*''(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.''.*

*(3) Section 8164(a) is amended by inserting ''8118 or'' after ''rather than under section''.*

*(4) Section 8165(a)(2) is amended by striking ''nursing home revolving fund'' and inserting ''Capital Asset Fund established under section 8118 of this title''.*

*(f) CONTINGENT EFFECTIVENESS.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with subsection (b) of section 1710B of title 38, United States Code. Such certification shall demonstrate a plan for, and commitment to, ongoing compliance with the requirements of that subsection.*

*(g) CONTINUING REPORTS.—Following a certification under subsection (f), the Secretary shall submit to Congress an update on that certification every six months until the certification is included in the Department's annual budget submission.*

***SEC. 103. ANNUAL REPORT TO CONGRESS ON INVENTORY OF DEPARTMENT OF VETERANS AFFAIRS HISTORIC PROPERTIES.***

*(a) IN GENERAL.—Not later than December 15 of 2005, 2006, and 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the historic properties administered or controlled by the Secretary.*

*(b) INITIAL REPORT.—In the initial report under subsection (a), the Secretary shall set forth a complete inventory of the historic structures and property under the jurisdiction of the Secretary. The report shall include a description and classification of each such property based upon historical nature, current physical condition, and potential for transfer, leasing, or adaptive use.*

*(c) SUBSEQUENT REPORTS.—In reports under subsection (a) after the initial report, the Secretary shall provide an update of the status of each property identified in the initial report, with the proposed and actual disposition of each property. Each such report shall include any recommendation of the Secretary for legislation to enhance the transfer, leasing or adaptive use of such properties.*

***SEC. 104. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NONRECURRING MAINTENANCE PROJECT.***

*Section 8109 is amended by adding at the end the following new subsection:*

*''(j) Funds in a construction account or capital account that are available for a construction project or a nonrecurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to that project.''.*

***SEC. 105. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUNDS TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.***

*Section 8104 is amended by adding at the end the following new subsection:*

*''(g) The limitation in subsection (f) does not apply to a project for which funds have been authorized by law in accordance with subsection (a)(2).''.*

***SEC. 106. IMPROVEMENT IN ENHANCED-USE LEASE AUTHORITIES.***

*Section 8166(a) is amended by inserting ''land use,'' in the second sentence after ''relating to''.*

***SEC. 107. EXTENSION OF AUTHORITY TO PROVIDE CARE UNDER LONG-TERM CARE PILOT PROGRAMS.***

*Subsection (h) of section 102 of the Veterans Millennium Health Care and Benefits Act (38 U.S.C. 1710B note) is amended—*

*(1) by inserting ''(1)'' before ''The authority of''; and*

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

*''(2) In the case of a veteran who is participating in a pilot program under this section as of the end of the three-year period applicable to that pilot program under paragraph (1), the Secretary may continue to provide to that veteran any of the services that could be provided under the pilot program. The authority to provide services to any veteran under the preceding sentence applies during the period beginning on the date specified in paragraph (1) with respect to that pilot program and ending on December 31, 2005.''.*

***TITLE II—OTHER MATTERS***

***SEC. 201. INCLUSION OF ALL ENROLLED VETERANS AMONG PERSONS ELIGIBLE TO USE CANTEENS OPERATED BY VETERANS' CANTEEN SERVICE.***

*The text of section 7803 is amended to read as follows:*

*''(a) PRIMARY BENEFICIARIES.—Canteens operated by the Service shall be primarily for the use and benefit of—*

*''(1) veterans hospitalized or domiciled at the facilities at which canteen services are provided; and*

*''(2) other veterans who are enrolled under section 1705 of this title.*

*''(b) OTHER AUTHORIZED USERS.—Service at such canteens may also be furnished to—*

*''(1) personnel of the Department and recognized veterans' organizations who are employed at a facility at which canteen services are provided and to other persons so employed;*

*''(2) the families of persons referred to in paragraph (1) who reside at the facility; and*

*''(3) relatives and other persons while visiting a person specified in this section.''.*

***SEC. 202. ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT.***

*(a) PEER REVIEW PANEL.—In order to assist the Secretary of Veterans Affairs in selecting facilities of the Department of Veterans Affairs to serve as sites for centers under section 7327 of title 38, United States Code, as added by subsection (c), the Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the selection of such facilities. The panel shall be established not later than 90 days after the date of the enactment of this Act and shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of veterans exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs. Amounts available to the Secretary for Medical Care may be used for purposes of carrying out this subsection. The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).*

*(b) PROPOSALS.—The Secretary shall solicit proposals for designation of facilities as described in subsection (a). The announcement of the solicitation of such proposals shall be issued not later than 60 days after the date of the enactment of this Act, and the deadline for the submission of proposals in response to such solicitation shall be not later than 90 days after the date of such announcement. The peer review panel established under subsection (a) shall complete its review of the proposals and submit its recommendations to the Secretary not later than 60 days after the date of the deadline for the submission of proposals. The Secretary shall then select the four sites for the location of such centers not later than 45 days after the date on which the peer review panel submits its recommendations to the Secretary.*

*(c) REVISED SECTION.—Subchapter II of chapter 73 is amended by adding at the end a new section with—*

*(1) a heading as follows:*

***''§ 7327. Medical preparedness centers'';***

*and*

*(2) a text consisting of the text of subsections (a) through (h) of section 7325 of title 38, United States Code, and a subsection (i) at the end as follows:*

*''(i) FUNDING.—(1) There are authorized to be appropriated for the centers under this section $10,000,000 for each of fiscal years 2005 through 2007.*

*''(2) In addition to any amounts appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to the centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.''.*

*(d) RULE OF CONSTRUCTION.—No provision of law may be construed to supersede or nullify this section, or an amendment made by this section, unless it specifically refers to this subsection and specifically states that it is enacted to supersede or nullify this section or a provision of this section.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

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

Mr. Speaker, I rise in very strong support and urge colleagues to support and embrace H.R. 4768, the Veterans Health Programs and Facilities Enhancement Act of 2004. I want to thank the gentleman from Illinois (Mr. EVANS), ranking member, who has been a very strong partner in helping shape this legislation. And I particularly want to thank the gentleman from Connecticut (Mr. SIMMONS), chairman of the Health Subcommittee, who is the prime sponsor of this legislation, for his leadership. It has been extraordinary, and I do want to acknowledge that. I also want to thank the gentleman from Texas (Mr. RODRIGUEZ), who likewise has worked as a good partner in a bipartisan effort to craft this very important piece of legislation.

Mr. Speaker, this legislation will help address the need to modernize aging veterans health-care facilities, make better use of existing properties and dispose of unneeded VA properties over the next several years. The Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 gave the Secretary of Veterans Affairs wide latitude to spend funds to improve, restore, or replace those VA health-care facilities most in need of such work. Congress instructed the Secretary to approve individual products based on recommendations of an independent capital investments board, and we placed a premium on projects to protect patient safety as well as privacy, improve seismic protection, and provide barrier-free accommodations. Moreover, we also put an emphasis on improving specialized-care facilities. Thus, even though the VA's budget request of $400 million for fiscal year 2005 to carry out approved modernization projects, the necessary authorization legislation is already enacted.

For the benefit of the many Members who are interested in the plans to improve VA health-care facilities, I will insert a summary of the capital projects which the Secretary listed as the VA's highest priorities when he announced his CARES decision in June of

this year. The cost of the projects for fiscal year 2004 totals $623 million, while the projects listed for fiscal year 2005 total $401 million.

Mr. Speaker, after a multi-year drought in available funds to improve VA's extensive hospital and outpatient network, this long list of OMB-approved projects marks the beginning of a multi-year effort to modernize those facilities that will be needed to serve veterans in the first half of the 21st Century. VA Secretary Principi anticipates that the just-completed CARES process will require additional investment of approximately $1 billion per year for the next 5 years in order to bring the VA's infrastructure up to contemporary standards and meet veterans' expectations of accessible care.

In addition, it should be noted that the CARES process is not complete, and there will undoubtedly be further fiscal consequences when the VA has fully assessed its current and future obligation to veterans who need long-term care as well as mental health care. Honoring these commitments may well mean additional investments in the VA facilities which are not included in the Secretary's $5 billion figure.

This legislation, Mr. Speaker, authorizes major medical facility leases at 16 locations for community-based clinics at a cost of approximately $24.4 million in fiscal year 2005. Most of these leases are for replacement facilities, although some expansion into new locations is also proposed and approved by this bill.

This bill would also provide the Department authority to enter into a unique long-term lease for up to 75 years for the land to construct a new medical facility on the Fitzsimons Campus at the University of Colorado in Aurora, Colorado. It is anticipated that this new VA facility will share many services with the university and also provide services to Air Force beneficiaries. I want to recognize and thank the gentleman from Colorado (Mr. BEAUPREZ) for helping to identify the need to provide this authority to support the Fitzsimons project as well as the close attention he has given it as we have worked on this in the 108th Congress. And I thank the gentleman from Colorado (Mr. BEAUPREZ) so much for that.

This legislation, Mr. Speaker, will also facilitate the Secretary's authority to transfer unneeded real property currently in the VA's portfolio. The bill would require fair-market value for disposals, except when a property would be transferred to a provider of homeless veterans' services under a grant under section 2011 of title 38, U.S. Code.

This bill would also establish a new fund to be known as the Capital Asset Fund. The purpose of the new fund would be to defray VA's cost of transferring real property, including demolition, environmental restoration, maintenance, repair, historic preservation, and administrative expenses. This bill would authorize appropriations of $10 million in seed money to launch the fund and support the capital planning initiatives developed through the VA's capital planning process.

Mr. Speaker, VA controls the fourth largest inventory of owned, leased and operated federal real property. It is estimated that more than half of the VA's facilities are over 50 years old. Many structures date from the 19th Century, and many more were constructed in the late 1940s and early 1950s. Portions of the 24 VA medical center campuses are currently listed on the National Register of Historic Places. Another 61 sites have been determined eligible or potentiality eligible for this designation. Given this array of heritage assets, H.R. 4768 would also allow the Secretary to enter into partnerships or agreements with public or private entities dedicated to historic preservation and to use resources from the Capital Asset Fund to facilitate the transfer, leasing or adaptive uses of these historic properties that no longer serve useful purposes as health-care facilities.

The bill would also require an inventory and series of reports on the status of each historic property. The bill would also require the Department's annual budget submission to include information on each proposed and completed transfer of VA real property, including historic property, using this authority, as well to report deposits and expenditures from the new fund.

Mr. Speaker, the Millennium Health Care and Benefits Act requires the VA to maintain long-term care programs, sustain a defined number of nursing home beds, and enhance other long-term programs, such as geriatric evaluation, domiciliary, and adult day health care, and respite, palliative and hospice programs, in both institutional and noninstitutional settings. The Congress' interest in these programs is strong and ongoing, as evidenced by our decision last year to extend many of the provisions of the 1999 Millennium Health Care Act for another 5 years. Since VA has struggled to meet many of these requirements of the Act, this bill would make the new property transfer authority contingent on the Secretary's certification that the VA is maintaining the long-term-care facility required in that Act.

The bill also includes additional provisions endorsed by the administration, including one to clarify that the Veterans' Canteen Service can serve all enrolled veterans, not just hospitalized veterans. Congress established the Canteen Service in the late 1940s at a time when the VA health-care system was hospital-based and many patients were hospitalized for months at a time at facilities that were far from commercial centers. This restatement of the Canteen's mission is consistent with the shift of VA care over the past 10 years from hospital-based care to an outpatient-based health-care system. Veterans enrolled in the VA health care ought to be able to obtain the products and services available in VA canteens without any restrictions in law.

Below are the FY 2004 and 2005 projects for which VA is requesting authorization and appropriation approval from Congress to proceed.

SUMMARY OF CARES FY 2004 AND 2005 CAPITAL PROJECTS

| Year | VISN | Location | Project title—brief description | Priority # | Budget request ($000) |
|---|---|---|---|---|---|
| 2004 | 12 | Chicago, IL | Bed Tower | * | $98,500 |
| 2004 | 12 | North Chicago, IL | Joint VA and Dept of Navy Medical Project | * | 13,000 |
| 2004 | 21 | Palo Alto, CA | Seismic Corrections Bldg. 2 | 1 | 34,000 |
| 2004 | 10 | Cleveland, OH | Cleveland-Brecksville Cons., Ph 1 Design | 2 | 15,000 |
| 2004 | 4 | Pittsburgh, PA | Consolidation of Campuses, Ph 1 Design | 3 | 20,000 |
| 2004 | 23 | Minneapolis, MN | SCI & SCD Center | 4 | 20,500 |
| 2004 | 22 | Las Vegas, NV | New Federal Medical Facility, Design and Land Purchase | 6 | 60,000 |
| 2004 | 8 | Gainesville, FL | Correct Pt. Privacy Def., Ph 1-Design | 7 | 8,800 |
| 2004 | 11 | Indianapolis, IN | 7th & 8th Fl. Wards Modernization Addition | 8 | 27,400 |
| 2004 | 18 | Tucson, AZ | Mental Health Clinic | 9 | 12,100 |
| 2004 | 19 | Denver, CO | New Federal Medical Facility, Ph 1 Design | 10 | 30,000 |
| 2004 | 17 | San Antonio, TX | Ward Upgrades and Expansion | 11 | 19,100 |
| 2004 | 8 | Orlando, FL | Bed Tower, Phase 1 Design | 12 | 25,000 |
| 2004 | 8 | Tampa, FL | Upgrade Essential Electrical Dist. Systems | 13 | 49,000 |
| 2004 | 10 | Columbus, OH | Construction of Outpatient Clinic | 14 | 94,800 |
| 2004 | 6 | Durham, NC | Renovate Patient Wards | 15 | 9,100 |
| 2004 | 22 | Long Beach, CA | Seismic Corrections—Bldgs 7,126, Phase 1 Design | 16 | 10,300 |
| 2004 | 20 | Anchorage, AK | Outpt. Clinic/Regional Office, Ph 1 Design | 18 | 11,760 |
| 2004 | | Various | Line Items | | 64,378 |
| | | | Total | | 622,738 |
| 2005 | 8 | Tampa, FL | SCI Expansion | **5 | 7,100 |
| 2005 | 16 | Pensacola, FL | Joint VA and Department of Navy OPC | ***17 | 55,500 |
| 2005 | 17 | Temple, TX | Blind Rehab and Psychiatric Beds | 19 | 56,000 |
| 2005 | 8 | San Juan, PR | Seismic Corrections—Bldg. 1, Ph 1 Design | 20 | 15,000 |
| 2005 | 2 | Syracuse, NY | Construct Addition for SCI Center | 21 | 53,900 |

SUMMARY OF CARES FY 2004 AND 2005 CAPITAL PROJECTS—Continued

| Year | VISN | Location | Project title—brief description | Priority # | Budget request ($000) |
|---|---|---|---|---|---|
| 2005 | 7 | Atlanta, GA | Modernize Patient Wards | 22 | 20,700 |
| 2005 | 21 | Menlo Park, CA | Seismic Corrections—Geropsych. NH Replacement (Bldg. 324) | 23 | 33,239 |
| 2005 | 21 | San Francisco, CA | Seismic Corrections—Bldg. 203 | 24 | 41,500 |
| 2005 | 22 | Los Angeles, CA | Seismic Corrections—Bldgs. 500 & 501, Ph 1 Design | 25 | 8,000 |
| 2005 | 8 | Lee County, FL | Outpatient Clinic Land Purchase | 26 | 6,510 |
| 2005 | 23 | Des Moines, IA | Extended Care Building | 27 | 25,000 |
| 2005 | 22 | San Diego, CA | Seismic Corrections—Bldg. 1 | ***29 | 48,260 |
| 2005 | | Various | Line Items | | *30,091 |
| | | | Total | | 400,800 |

*Projects approved in the pilot CARES study for Network 12—Chicago/Wisconsin.
**Delayed pending results of further SCI study.
***Priority numbers 17 and 18, and 28 and 29 are reversed to maximize the utilization of the funding as requested in the 2004 and 2005 budgets.

The non-CARES capital investment decision process resulted in the identification of the following highest priority non-CARES projects that were reviewed by the Senior Management Council and approved by the Secretary. They were included in the Department's FY 2005 budget submission and are currently being considered by the Congress.

SUMMARY OF NON-CARES FY 2005 CAPITAL PROJECTS

| Year | Admin | Location | Project title—brief description | Priority | Budget request ($000) |
|---|---|---|---|---|---|
| | | | **Acquisition Business Case Applications** | | |
| 2005 | NCA | Vacaville, CA | Sacramento Area New Cemetery Phase 1 Development | 1 | $21,600 |
| 2005 | NCA | Bushnell, FL | Cemetery Expansion | 2 | 20,000 |
| 2005 | NCA | Rock Island, IL | Moline Cemetery Expansion | 3 | 10,200 |
| 2005 | VBA | Huntington, WV | New GSA Lease | 4 | 3,700 |
| 2005 | VBA | Reno, NV | VARO Reno GSA Lease | 5 | 1,000 |
| | | | **Planning Business Case Applications (Requesting Design Funds)** | | |
| 2005 | NCA | San Diego, CA | Ft. Rosecrans Cemetery Annex at Miramar (Design) | 1 | 1,000 |
| 2005 | NCA | Riverside, CA | Cemetery Expansion (Design) | 2 | 1,400 |
| 2005 | NCA | Gustine, CA | San Joaquin Valley Cemetery Expansion (Design) | 3 | 800 |

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

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

Mr. Speaker, let me, first of all, take this opportunity to thank the gentleman from New Jersey (Chairman SMITH) for his efforts in this particular piece of legislation, and I want to thank him personally for his work in the Committee on Veterans' Affairs; as well as the gentleman from Connecticut (Mr. SIMMONS), the subcommittee chairman, for his work and his diligence and outreach to my side. I also want to take this opportunity to also thank the gentleman from Illinois (Mr. EVANS) for his work.

Mr. Speaker, I rise in support of H.R. 4768, the Veterans Health Programs and Facilities Enhancement Act of 2004. For the last 5 years, Mr. Speaker, the VA construction has essentially been nonexistent in large part to allow the completion of the CARES initiative. As the Members well know, the CARES initiative was an effort by the President to go out and look at facilities' utilizations, and so the fact is that we have not had an opportunity to improve on a lot of the facilities that are out there, and I am really pleased that this piece of legislation we have been able to bring forth. For the last 5 years, the VA health-care system has struggled to provide services with infrastructure that is in sore need of repair and upgrade.

H.R. 4768 will help the VA to develop and improve its properties, and under this bill, the Secretary of Veterans Affairs will have the authority to transfer unneeded properties and to retain the proceeds from those transfers.

In place of the Nursing Home Revolving Fund, the bill establishes a Capital Asset Fund, allowing the proceeds from the property transfers to be used for financing the cost of those transfers. The bill also authorizes $10 million to be appropriated to the Capital Asset Fund where it can be used for these purposes. Sixteen new major leases are authorized in this bill, including leases that I would like to mention in South Texas, where the gentleman from Texas' (Mr. ORTIZ) district has had a lack of services in the Corpus Christi area.

□ 1715

The gentleman from Texas (Mr. HINOJOSA), in the Harlingen area, and as well some services in the South Texas area, in San Antonio and others. So I am real pleased to have seen those areas, that even the CARES proposal that identified some areas of disparity that exists in terms of services for veterans.

Because many of the VA's important historic buildings are poorly maintained and are falling apart, I am also pleased that the Committee on Veterans' Affairs concluded that the VA should also use the capital asset fund to preserve historic properties. It is the committee's intent for VA to provide a series of reports to address its large inventory of historic assets.

In addition to the VA's construction, H.R. 4768 will include funds for four emergency preparedness centers we authorized in November of 2004. These centers will enhance medical preparedness for the VA and for the Nation. It is clear to me that as the Nation's largest health care provider, the VA has an important role to play in providing for attack or natural disasters. I have fought for funds to address the initiative costs of these centers, and I am pleased that the provisions are included.

This legislation would also extend the VA's authority to provide care to veterans participating in long-term care pilot programs. These programs were previously authorized in the Veterans Millennium Health Care and Benefits Act, and are set to expire in December of 2005. I am pleased to be an original cosponsor of the legislation, and I hope Members will support this bill.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield 4 minutes to my good friend and colleague, the gentleman from Florida (Mr. STEARNS), the prime sponsor of the Millennium Health Care Act referenced earlier in the debate.

Mr. STEARNS. Mr. Speaker, I thank the distinguished chairman, and I also thank the chairman of the Subcommittee on Health for his support and commend him for all his actions.

I rise in support of this bill, H.R. 4768. I am also pleased, as the chairman mentioned, to be an original cosponsor of this bill, which authorized projects which have been well analyzed by the CARES Commission. I think we all know what this is, the Capital Asset Realignment For Enhancement Services. It has been recommended to Secretary Principi.

Under CARES, the VA reviewed all of its facilities systematically, and I think that should be an assurance to all veterans, to consider where resources should be allocated for optimum services for the veterans, particularly as more veterans, as we know, relocate to the Southeast, particularly in

Florida. It appears the VA has insufficient clinics down in the southeast portion, and so I am very pleased to see that they are looking at that.

Accordingly, the majority of the leases which the legislation would authorize are in the South. The aim has been to match assets with the veterans, and this bill does just that. Florida, as we know, has the second largest veterans population and the number one in terms of age.

Obviously, I am heartened to see a lease for a regional health care facility providing multiple specialties in South Marion County, Summerfield, Florida, in this legislation. The plans are for such a clinic to offer comprehensive services to veterans. These are comprehensive services you would not get in an outpatient clinic and they are complete. It also will have imaging service in its facility. It will be 75,000 square feet. It will provide more services and greater resources for veterans than existing outpatient VA clinics can currently provide.

Even better, Mr. Chairman, while this clinic is predicted to be open in the summer of 2007, appropriations willing, the generous resourceful people up in north central Florida have offered the VA use of a free space for an interim clinic. We have had the participation of local businesses to help out. So our ever increasing veterans population can see immediate relief for their long health care wait as early as this winter, and then the more comprehensive specialty clinic which the act authorizes in the long run.

So I have great enthusiasm for what we are doing. I am also proud to be the author of the millennium health care bill for veterans' long-term care, and I am pleased to help move this bill forward for outpatient care.

Lastly, let me say to my colleagues, this Congress and this President have delivered real results for the veterans health care system. The total VA budget has increased almost 50 percent, 50 percent, in just 4 years, and the budget for veterans medical care has increased 40 percent in 4 years.

So I say, a record number of veterans are receiving health care today, over 5 million, up 1.2 million from 4 years ago, and the number of veterans on medical waiting lists has dropped from over 300,000 in the year 2002 to just over 3,000 today.

This is America. This is something we should be very proud of, and I think all the veterans should realize this. So all we need to do now to complete this great track record is continue the clinics and, of course, pass H.R. 4768.

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

Mr. Speaker, I want to thank the chairman for the bill, but I just had some concerns with the dialogue on the House floor.

We service about 4.7 million veterans in this country. There are 25 million veterans out there, and our veterans are reaching that age where we really need to reach out to them. So we do have a long way to go. But I am real pleased to have this bill before us.

Mr. Speaker, I would like for the record to show that the ranking member, the gentleman from Illinois (Mr. EVANS) wanted to be here to comment on this important bill, in which he has played a very important role and strategic role, but at the present time he is at the Committee on Armed Services meeting on the 9/11 legislation that is there before him. He does, however, intend to make comments available for the record.

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

Mr. SMITH of New Jersey. Mr. Speaker, it is a pleasure and delight to yield such time as he may consume to the gentleman from Connecticut (Mr. SIMMONS), the prime sponsor of this bill and the chairman of our Subcommittee on Health.

Mr. SIMMONS. Mr. Speaker, I thank the gentleman for yielding me time. I also thank my colleague, the gentleman from Texas (Mr. RODRIGUEZ), the ranking member of the Subcommittee on Health of the Committee on Veterans' Affairs, for all of the hard work he has done over the last 2 years working with me in a bipartisan fashion to bring this and many other bills forward that benefit our veterans. Of course, our chairman, the gentleman from New Jersey (Chairman SMITH) and ranking member, the gentleman from Illinois (Mr. EVANS), have been stalwart advocates for our veterans, and I appreciate their leadership as well.

Mr. Speaker, several years ago the Government Accounting Office revealed that the Veterans Administration was losing millions of dollars because of the upkeep of underutilized facilities, and the VA has been moving to realign their capital assets, their real properties, so that this expenditure of funds is no longer excessive.

What this legislation tries to do is give the VA the appropriate tools to better manage their capital assets. This legislation would not only provide them with the funding authority to open 16 new outpatient clinics, it also provides a mechanism for the transfer of VA properties, to turn the proceeds from such transfers into additional revenues to support veterans health care.

It allows the VA to retain proceeds from the sale or leasing or transfer of excess property, and then these proceeds go into the new capital asset fund where then the VA could reappropriate them to provide delivery of health care to our veterans.

Furthermore, it would allow or require the VA to obtain fair market value for the transfer of any properties except those properties that might be transferred to providers of homeless services for our veterans.

Thirdly, the legislation recognizes that some VA properties have tremendous historic value, such as the Fitzsimons Hospital out in Colorado, which has a room that was used for President Dwight Eisenhower as he recovered from his heart attack. We do not want to destroy those properties that have historic value or that have rooms or bays in them that housed famous personalities.

So what we want to do, as we move the VA properties into the 21st century, we also want to preserve and protect numerous properties that have historic value, and this legislation allows the VA to adopt these historic properties to new uses.

I know my colleague from Colorado is here and that he will be speaking about the Fitzsimons Hospital. So I will pass over that and simply say that this legislation, again, was designed to allow the VA to be more effective in how it manages its capital assets so that as we sell, lease or transfer these properties, the VA can recover those dollars and then reallocate them to provide services for our veterans.

Mr. Speaker, I am proud to work with my colleagues across the aisle on this legislation.

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

Mr. Speaker, let me briefly just mention I am real pleased that in the piece of legislation, in 2002 we had passed the wordings for the emergency preparedness centers. One of the beauties of the VA is the fourth mission, and that is to respond to health care needs in case of emergencies, in case this country is ever hit, such as what happened on 9/11. It is one of the few systems that we have nationwide to respond.

We drafted legislation to establish four emergency preparedness centers, and I am real pleased the effort is there in this piece of legislation to try to make that happen and create that.

This is definitely an area where we really need to beef up on. I am hoping that the appropriators look at this seriously. I know that the discussions in the past have been that this should be a homeland security issue. The bottom line is that homeland security does not have access to health care, VA does, and emergency preparedness centers could provide that care.

So I think this is the appropriate area where we could respond through this legislation.

Let me just add once again on the CARES process, the CARES process also came up with some real good data that I think we also need to be concerned about, and this legislation begins to address some of those, but there are still some gaps there, and that is where it showed the disparities throughout the country.

Depending on where the veteran resides, depending on where he lives, determines basically the types of services that he gets or does not get, and that is one of the proposals and one of the recommendations that the CARES process has.

But one of the negative things that I would like to mention is that in the

process of having this CARES and going throughout the country, I know the VA put out a letter asking the staff not to solicit, not to educate veterans about services. The letter even indicated that even where there were gaps and where utilization of facilities were not being utilized, not to bring in more additional veterans, to the point that the Vietnam Veterans of America got fed up with it and decided to file a lawsuit against the VA.

So I was very pleased to see that, and we need to continue to move forward.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. BEAUPREZ), who was instrumental and really took the lead on this Fitzsimons Hospital. I congratulate him on his leadership.

Mr. BEAUPREZ. Mr. Speaker, I thank the chairman of the committee for yielding me time. He is to be commended for his vigilance on behalf of all of our veterans, and the gentleman from Illinois (Mr. EVANS) as well, our ranking member. I say to the subcommittee chairman, the gentleman from Connecticut (Mr. SIMMONS), it has been a pleasure to work with you on this legislation, as it has with the gentleman from Texas (Mr. RODRIGUEZ) on behalf of all of our veterans, and, I might add, on behalf of our taxpayers, because I think we are being good stewards of the taxpayers' money. I think that is a point worth making.

I know with the Fitzsimons project out in Colorado, which has already been mentioned, thank you very much, that I am going to talk about some more, I was convinced early on by the planners of this project that the operational savings of this new facility will more than pay for it as compared to maintaining and upgrading the aged 50-year-old facility we now have. So that makes sense, and we are delivering to our veterans health care in a network of facilities, especially the outpatient clinics, the way we deliver health care now in this 21st century. So it does make sense.

A word about Fitzsimons, if I might. Another word about Fitzsimons, if I might. We are so excited about this project, for many reasons. It will continue a 50-year-plus partnership with the University of Colorado Health Science Center and the VA. The University of Colorado maintains a teaching research hospital that now in the new Fitzsimons campus, the renovated Fitzsimons campus, is going to be an enhanced, expanded, state-of-the-art facility.

□ 1730

It is an absolute true state-of-the-art facility that will attract the best and brightest in the medical industry from all over the world.

Why is that key to our veterans? Because 90 percent of our VA docs have cross privileges, so we have the best talent right there available, yes, for our veterans. We are also going to be in partnership with the DOD. Buckley Air Force Base is right across the street. So we are going to have the most modern facility, a research teaching facility, the greatest staff from which to recruit and staff our hospital. We believe in this hospital creating a state-of-the-art, a new standard, elevating the standard for health care for all of our veterans.

Mr. Speaker, I thank all of the committee members, and I thank Secretary Principi for supporting this as well. It is an opportunity to do the right thing for those among our population who very much deserve the very best: our veterans.

Mr. ORTIZ. Mr. Speaker, this bill is good news for veterans around this great Nation, and it is particularly very good news for South Texas. It recognizes a fundamental truth: The population of veterans in the South Texas area is exploding and the services we currently offer simply are not enough to adequately serve veterans' needs in the 21st Century.

Veterans across South Texas have joined me in talking to DVA in forums and conferences around our area—that one-on-one illustration of how veterans were being served had a large impact on the legislation we are considering today.

I have hosted an annual South Texas Veterans' Fair for the last several years, bringing together South Texas veterans with concerns about the health services and the policy makers at DVA. Earlier this month was the most recent fair I hosted, in Corpus Christi. The most often-repeated concern, as always, was with how to address the lack of in-patient hospital services in South Texas.

Nothing will ever be enough for our veterans—and change can never come fast enough, but this bill, with specific directions on in-patient hospital care and funding for the Secretary to lease medical facilities, is a considerably better place to be than we were before.

Those who wear the uniform of the United States serve this Nation; it is our duty to serve them.

Mr. VISCLOSKY. Mr. Speaker, I rise in strong support of H.R 4768, the Veterans' Medical Facilities Management Act of 2004. I thank Congressman SIMMONS for introducing this important piece of legislation and the Veterans' Affairs Committee for giving it the immediate attention that it deserves. In keeping with our commitment to high-quality veterans' medical care, this measure authorizes $850,000 in funds for the Adam Benjamin Jr. VA outpatient medical facility in Crown Point, Indiana.

It is imperative that we support our Nation's veterans and ensure that their medical care is among our highest priorities. We owe a great debt of gratitude for those who have sacrificed on behalf of all Americans. That is why I strongly support this measure which provides for the consistent supply of quality health care to our veterans.

I urge passage of H.R 4768, an essential step in keeping our commitment to maintaining a strong VA health care service network. I want to recognize the important efforts of all of those who work at the Crown Point VA outpatient clinic, taking up the noble daily effort of caring for our Nation's veterans. And I am proud to honor the veterans of Northwest Indiana who have served our country with courage and distinction. I ask that you and my other colleagues join me in thanking these brave men and women, as well as our other former and current members of the United States military, for their bravery and valor in the face of danger. These men and women risked their lives in order to protect the freedoms that we enjoy each day, and they deserve all of our honor and respect. I am proud to represent them in Indiana's First Congressional District.

Mr. Speaker, I urge my colleagues to support this important legislation so that our brave veterans may continue to receive the health care they so deserve.

Mr. EVANS. Mr. Speaker, I join my colleagues in support of the Veterans Health Programs and Facilities Enhancement Act of 2004.

I'd like to thank both Congressman RODRIGUEZ, ranking member of the Health Subcommittee, and Congressman SIMMONS, chairman of the Health Subcommittee, for their hard work in developing this bill.

VA has requested many of the authorities in this bill, and the establishment of the Capital Asset Fund will help to renovate some of VA's underused facilities.

The VA needs to meet construction priorities in order to maintain a health care system infrastructure that will be called on increasingly as our service personnel return from Iraq with physical and psychological disabilities.

I also support the need to continue some pilot programs we authorized in the Millennium Health Care and Benefits Act of 1999.

I certainly agree that veterans who have been program beneficiaries should be able to continue receiving services.

Under this bill, VA's authority to care for veterans participating in long-term care pilots will be extended until December 2005.

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

Mr. SMITH of New Jersey. Mr. Speaker, we likewise yield back the balance of our time, and ask for a ''yea'' vote.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4768, 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 was amended so as to read: ''A bill to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs, and for other purposes.''.

A motion to reconsider was laid on the table.

## DEPARTMENT OF VETERANS AFFAIRS NURSE RECRUITMENT AND RETENTION ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4231) to provide for a pilot program in the Department of Veterans Affairs to improve recruitment and retention of nurses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4231

*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 ''Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004''.

**SEC. 2. PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE FACILITIES.**

(a) PILOT.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall designate a health-care service region, or a section within such a region, in which health-care facilities of the Department of Veterans Affairs are adversely affected by a shortage of qualified nurses.

(2) The Secretary shall conduct a pilot program in the region or section designated under paragraph (1) to determine the effectiveness of the use of innovative human-capital tools and techniques in the recruitment of qualified nurses for positions at Department health-care facilities and for the retention of nurses at such facilities. In carrying out the pilot program, the Secretary shall enter into a contract with a private-sector entity for services under the pilot program for recruitment of qualified nurses.

(b) PRIVATE-SECTOR RECRUITMENT PRACTICES.—For purposes of the pilot program under this section, the Secretary shall identify and use recruitment practices that have proven effective for placing qualified individuals in positions that are difficult to fill due to shortages of qualified individuals or other factors. Recruitment practices to be reviewed by the Secretary for use in the pilot program shall include—

(1) employer branding and interactive advertising strategies;

(2) Internet technologies and automated staffing systems; and

(3) the use of recruitment, advertising, and communication agencies.

(c) STREAMLINED HIRING PROCESS.—In carrying out the pilot program under this section, the Secretary shall, at health-care facilities of the Department in the region or section in which the pilot program is conducted, revise procedures and systems for selecting and hiring qualified nurses to reduce the length of the hiring process. If the Secretary identifies measures to streamline and automate the hiring process that can only be implemented if authorized by law, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives recommendations for such changes in law as may be necessary to enable such measure to be implemented.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the extent to which the pilot program achieved the goal of improving the recruitment and retention of nurses in Department of Veterans Affairs health-care facilities.

**SEC. 3. ALTERNATE WORK SCHEDULES FOR NURSES.**

(a) ENHANCED SHIFT FLEXIBILITY.—Chapter 74 of title 38, United States Code, is amended by inserting after section 7456 the following new section:

**''§ 7456a. Alternate work schedules**

''(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

''(b) 36/40 WORK SCHEDULE.—(1) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at a Department health-care facility, the Secretary may provide, in the case of registered nurses employed at that facility, that such a nurse who works three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek. Such a schedule may be referred to as a '36/40 work schedule'.

''(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek is subject to subparagraphs (B) and (C).

''(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

''(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within a workweek is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of—

''(I) eight hours on a day other than a day on which such nurse's regularly scheduled 12-hour tour falls;

''(II) 12 hours for any day included in the regularly scheduled 36-hour tour of duty; and

''(III) 40 hours during an administrative workweek.

''(ii) Except as provided in clause (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

''(3) A nurse who works a 36/40 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for nine hours of absence.

''(c) 7/7 Work Schedule—(1) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at a Department health-care facility, the Secretary may provide, in the case of registered nurses employed at such facility, that such a nurse who works seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 80 hours for the pay period. Such a schedule may be referred to as a '7/7 work schedule'.

''(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 80-hour pay period is subject to subparagraphs (B) and (C).

''(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 70-hour tour of duty within the pay period shall be derived by dividing the nurse's annual rate of basic pay by 1,820.

''(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 70-hour tour of duty within a pay period is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of—

''(I) eight hours on a day other than a day on which such nurse's regularly scheduled 10-hour tour falls;

''(II) 10 hours for any day included in the regularly scheduled 70-hour tour of duty; and

''(III) 80 hours during a pay period.

''(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 10-hour tour of duty.

''(3) A nurse who works a 7/7 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of eight hours of leave for seven hours of absence.

''(d) 9-Month WORK SCHEDULE.—The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full-time for nine months with three months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of that fiscal year. A nurse working on such a schedule for any fiscal year shall be considered a ¾ full-time equivalent employee for that fiscal year in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings. Service on such a schedule shall be considered to be part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

''(e) REGULATIONS.—The Secretary shall prescribe regulations for the implementation of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 of such title is amended by inserting after the item relating to section 7456 the following new item:

''7456a. Alternate work schedules.''.

**SEC. 4. TECHNICAL CORRECTION TO LISTING OF CERTAIN HYBRID POSITIONS IN VETERANS HEALTH ADMINISTRATION.**

Section 7401(3) of title 38, United States Code, is amended—

(1) by striking ''and dental technologists'' and inserting ''technologists, dental hygienists, dental assistants''; and

(2) by striking ''technicians, therapeutic radiologic technicians, and social workers'' and inserting ''technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists''.

**SEC. 5. ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS HOMES.**

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1743 the following new section:

**''§ 1744. Hiring and retention of nurses: payments to assist States**

''(a) PAYMENT PROGRAM.—The Secretary shall make payments to States under this section for the purpose of assisting State homes in the hiring and retention of nurses and the reduction of nursing shortages at State homes.

''(b) ELIGIBLE RECIPIENTS.—Payments to a State for a fiscal year under this section shall, subject to submission of an application, be made to any State that during that year—

''(1) receives per diem payments under this subchapter for that fiscal year; and

''(2) has in effect an employee incentive scholarship program or other employee incentive program at a State home designed to promote the hiring and retention of nursing staff and to reduce nursing shortages at that home.

''(c) USE OF FUNDS RECEIVED.—A State may use an amount received under this section only to provide funds for a program described in subsection (b)(2). Any program shall meet such criteria as the Secretary may prescribe. In prescribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.

''(d) LIMITATIONS ON AMOUNT OF PAYMENT.—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other incentive program for which the payment is made.

''(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.

''(e) APPLICATIONS.—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other incentive program described in subsection (c) for which the payment is sought.

''(f) SOURCE OF FUNDS.—Payments under this section shall be made from funds available for other payments under this subchapter.

''(g) DISBURSEMENT.—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.

''(h) USE OF CERTAIN RECEIPTS.—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home's incentive program account and credited as a non-Federal funding source.

''(i) ANNUAL REPORT FROM PAYMENT RECIPIENTS.—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous year in accordance with this subsection.

''(j) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after section 1743 the following new item:

''1744. Hiring and retention of nurses: payments to assist States.''.

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than January 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final.

**SEC. 6. TECHNICAL CLARIFICATION.**

Section 8111(d)(2) of title 38, United States Code, is amended by inserting before the period at the end of the last sentence the following: ''and shall be available for any purpose authorized by this section''.

**SEC. 7. UNDER SECRETARY FOR HEALTH.**

Section 305(a)(2) of title 38, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking ''shall be a doctor of medicine and''; and

(2) in subparagraph (A), by striking ''and in health-care'' and inserting ''or in health-care''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

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

(Mr. SMITH of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I rise in very strong support of H.R. 4231, as amended, the Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004. I want to thank the gentleman from Connecticut (Mr. SIMMONS), the chairman of our Subcommittee on Health, my friend and colleague, for introducing this legislation, and for his astute judgment and perseverance that was essential in bringing this bill before the House today. I also want to thank the gentleman from Texas (Mr. RODRIGUEZ), as well the gentleman from Illinois (Mr. EVANS), because, again, that partnership is so important in bringing these veterans bills to the floor; and I want to thank them for their leadership as well.

As amended, H.R. 4231 would authorize several new and innovative approaches to help the VA maintain the quality of its workforce in all VA health care facilities. The bill would establish a pilot program to use outside recruitment agencies with interactive and online technologies to improve VA recruitment of vital nursing personnel. It would also allow the VA to offer three alternative work schedules for nurses so that employment in VA can be more sensitive to family and personal needs for scheduling flexibility and career development.

It also contains a provision to aid State veterans homes which care for thousands of veterans in need of nursing home care each and every year.

One measure in the bill as reported deserves a moment of discussion, because it caused some concern for members of the committee and organizations whose members might be affected. As reported, the bill would have prohibited VA from denying employment to a State-licensed registered nurse whose educational preparation was other than a baccalaureate degree. There is a well-documented shortage, Mr. Speaker, of trained, registered nurses in the United States. Community colleges in every State have stepped forward to offer professional nursing careers through associate degree preparation. Their success in preparing their students is reflected in the rate at which associate degreed nurses pass required State registered nurse examinations.

Associate degree nurses are systematically and vigorously recruited in almost every health care institution in the United States. In the VA, there is a preference in hiring baccalaureate graduates and a policy of excluding associate degree nurses from internal VA promotions. At a time when nurses are in short supply and when community colleges are the primary source of new nursing graduates, should the VA be emphasizing baccalaureate degrees to the exclusion of others who are fully qualified as professional nurses? We think not.

The committee is concerned that these current VA hiring practices and the variation in these practices noted in the recent report of the VA's National Commission on VA Nursing discouraged nurses with associate degrees from even seeking VA employment. VA's practice of exclusion in the face of high demand and scarcity of nursing personnel discourages qualified nurses from seeking VA employment. This practice also adversely affects VA's ability to retain current nurses.

Following extensive discussions after this bill was ordered reported, the bill before the House today does not include section 4 of the bill as ordered reported. Section 4 was designed to keep the VA competitive with the private sector and to clarify that the lack of a baccalaureate degree could not be the basis to deny nurse employment in a VA facility. However, the aim of the provision was misread by some who believe that the best qualified nurses are those who have a bachelor's degree or some advanced degree in nursing.

Most of us who seek health care look to providers who are competent, compassionate, critical thinkers, good communicators, and who are dedicated to expanding their knowledge of human

susceptibility to disease. None of those qualities are guaranteed to be present in a particular graduate of any health care profession from any school. In the case of nurses, competence is tested by State licensing exams, and only those who pass the exam are licensed to practice in a State or in the VA. The other qualities I mentioned are acquired from associating with and learning from other professionals who possess them. There is no guarantee that any particular licensed professional possesses all of them.

Mr. Speaker, VA's own hiring policy requires that persons with associate degrees in nursing be considered at entry-level positions. The committee supports the underlying premise of this policy, and there should be no discrimination based against persons who demonstrate competence by passing a State examination. Unfortunately, the committee has gathered irrefutable evidence that some VA medical centers did violate VA's hiring policy and discriminated against prospective employees who possessed an associate degree in nursing.

The committee has recently received assurances, however, from the acting Under Secretary for Health that the VA will correct these improper practices. He has pledged that the VA will continue to adhere to its policy of considering appointment of licensed, registered nurses to entry-level positions without regard to the institution that granted them their nursing degree. In addition, the Under Secretary promised to undertake a number of significant steps to address any lingering effects from the improper recruiting practices which the committee discovered.

In light of this commitment and the VA's concern about the potential inadvertent effect of this language, the bill before us today does not contain the nursing qualification provision as ordered by the committee.

The committee looks forward to full reports on the execution of the several commitments made in a letter signed by Under Secretary on September 21 of this year, and I will include the letter at this point in the RECORD.

DEPARTMENT OF VETERANS AFFAIRS,
VETERANS HEALTH ADMINISTRATION,
*Washington, DC, September 21, 2004.*

Hon. CHRISTOPHER H. SMITH,
*Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This letter provides the Veterans Health Administration (VHA) position regarding H.R. 4231, Section 4—Appointment of nurses who do not have Baccalaureate Degrees.

VHA is committed to hiring all levels of licensed nurses including Bachelors prepared and registered nurses who have associate degrees or diplomas. In calendar year 2000, VHA appointed 815 associate degree nurses; in calendar year 2004 to date, VHA has appointed 1,337 associate degree nurses. Given the national nursing shortage, VHA cannot afford to overlook associate degree nurses. We recognize and value their contributions.

In order to further enhance recruitment of associate degree nurses, VHA is taking the following actions:

1. Instruct Department of Veterans Affairs (VA) facility managers and human resources staff to no longer include in vacancy announcements language limiting applicants to those who hold a Bachelor of Science in Nursing (BSN) degree or convey a preference for a BSN for ''Nurse I'' positions.

2. Continue working with the American Association of Community Colleges (AACC) to augment our marketing and recruiting efforts to associate degree nursing graduates. The Office of Nursing Services in Washington, D.C., will meet with the AACC on a quarterly basis and will present a marketing and recruiting strategy to them. An acceptable plan, including a commitment of VA resources, shall be in place by June 30, 2005.

3. The Health Care Staff Development and Retention Office will visit at least one community college nursing program affiliated with the AACC in each Veterans Integrated Services Network (VISN) in the coming year, and VA will ensure local facilities conduct outreach to community college programs. VA will provide information regarding employment opportunities, promotion policies, and scholarship and loan repayment programs available from VA. The first cycle of visits will be completed by December 31, 2005. In addition, to accomplish this goal, VISN staff will conduct many of the visits in coordination with the Health Care Staff Development and Retention Office.

I hope this information is of assistance to you. Should you need additional information, a member of your staff may contact Nevin Weaver, Director, Management Support Office at 202–273–5805.

Sincerely,
JONATHAN B. PERLIN, MD,
PHD, MSHA, FACP,
*Acting Under Secretary for Health.*

The last provision in the amended bill I want to mention incorporates the provisions of a bill that I introduced earlier this year, H.R. 4020. That bill would direct the Secretary of Veterans Affairs to make increased grants to assist States in hiring and retaining their own nursing personnel at State-owned operating nursing homes for veterans. State homes that currently receive per diem payments from the VA and have established employee incentive programs would be eligible to apply for incentive assistance and could receive up to 50 percent of the annual cost of the incentive program.

Mr. Speaker, in the wake of the Civil War, State veterans homes began caring for veterans and are now the largest provider of long-term care to our Nation's veterans. Today, over 16,000 veterans are being cared for in 128 State veterans homes in 47 States in the key partnership between the States and the VA.

The Department of Health and Human Services in 2002 surveyed the 50 States and Puerto Rico to learn how States are responding to the needs of health care workers. Ninety percent reported a shortage of nursing staff as a major concern in their responses. In efforts to respond to these nursing and other health care worker shortages, 44 of the 50 States reporting established task forces and commissions to study and seek solutions. The focus of the task forces or commissions in 25 States was to study shortages in the long-term health care force.

I am aware of difficulties that the three New Jersey State veterans homes in Vineland, Paramus, and Menlo Park have faced over the past several years in recruiting and retaining nursing staff. We can address this effort with new Federal incentives that supplement and assist State initiatives in providing long-term care to veterans. I think this legislation provides a sound blending of authorities to help maintain quality nursing personnel for veterans cared for in both the VA and State-run facilities.

Mr. Speaker, I rise in strong support of H.R. 4231, as amended, the Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004.

I want to thank the Chairman of our Subcommittee on Health, my friend the gentleman from Connecticut, Mr. SIMMONS, for introducing this legislation and for his astute judgment and perseverance that was essential to bringing this bill before the House today. I also want to thank Mr. EVANS, the ranking member of the full committee, and Mr. RODRIGUEZ, the ranking member of the Health Subcommittee for their leadership on this measure.

As amended, H.R. 4231 would authorize several new and innovative approaches to help the VA maintain the quality of its workforce in all VA health care facilities.

The bill would establish a pilot program to use outside recruitment agencies, with interactive and online technologies, to improve VA recruitment of vital nursing personnel. It would also allow VA to offer three new alternative work schedules for nurses so that employment in VA can be more sensitive to family and personal needs for scheduling flexibility and career development. It also contains a provision to aid State veterans homes which care for thousands of veterans in need of nursing home care each year.

One measure in the bill as reported deserves a moment of discussion because it caused some concern by Members of the Committee and organizations whose members might be affected. As reported, the bill would have prohibited VA from denying employment to a State-licensed registered nurse whose educational preparation was other than a baccalaureate degree.

There is a well-ducumented shortage of trained registered nurses in the United States. Community colleges in every state have stepped forward to offer professional nursing careers through associate degree preparation. Their success in preparing their students is reflected in the rate at which associate degree nurses pass required state registered nurse examinations. Associate degree nurses are systematically and vigorously recruited in almost every health care institution in the United States.

In the VA there is a preference in hiring for baccalaureate graduates, and a policy of excluding associate degree nurses from internal VA promotions. At a time when nurses are in short supply and when community colleges are the primary source of new nursing graduates, should VA be emphasizing baccalaureate graduates to the exclusion of others who are fully qualified as professional nurses? We think not.

The Committee is concerned that these current VA hiring practices, and the variation in these practices noted in the recent report of

VA's National Commission on VA Nursing, discourage nurses with associate degrees from even seeking VA employment. VA's practice of exclusion in the face of high demand and scarcity of nursing personnel discourages qualified nurses from seeking VA employment. This practice also adversely affects VA's ability to retain current nurses.

Following extensive discussions after this bill was ordered reported, the bill before the House today does not include section 4 of the bill as ordered reported. Section 4 was designed to keep VA competitive with the private sector, and to clarify that the lack of a baccalaureate degree could not be the basis to deny that nurse employment in a VA facility. However, the aim of the provision was misread by some who believe that the best-qualified nurses are those who have a bachelor's degree or some advanced degree in nursing.

Most of us who seek health care look for providers who are competent, compassionate, critical thinkers, good communicators, and who are dedicated to expanding their knowledge of human susceptibility to disease. None of those qualities are guaranteed to be present in a particular graduate of any health professions school. In the case of nursing, competence is tested by State licensing exams, and only those who pass that exam are licensed to practice in a State or in the VA. The other qualities I mentioned are acquired from associating with and learning from other professionals who possess them. There is no guarantee that any particular licensed professional possesses all of them.

VA's own hiring policy requires that persons with associate degrees in nursing be considered for entry-level positions. The Committee supports the underlying premise of this policy—that there should be no discrimination against person who demonstrate competence by passing a State examination. Unfortunately, the Committee has gathered irrefutable evidence that some VA medical centers did violate VA's hiring policy and discriminated against prospective employees who possessed an associate degree in nursing.

The Committee has recently received assurance from the Acting Undersecretary for Health that VA will correct these improper practices; he has pledged that VA will continue to adhere to its policy of considering appointment of licensed registered nurses to entry-level positions without regard to the institution that granted them their nursing degree. In addition, the Under Secretary promised to undertake a number of significant steps to address any lingering effects from the improper recruiting practices which the Committee discovered. In light of this commitment, and the VA's concerns about the potential inadvertent effects of this language, the bill before the House today does not contain the nursing qualification provision as ordered reported by the Committee.

The Committee looks forward to full reports on the execution of the several commitments it made in a letter signed by the Under Secretary on September 21, 2004. I ask unanimous consent to insert a copy of that letter in the RECORD at this point.

The last provision in the amended bill I want to mention incorporates the provisions of a bill I introduced earlier this year, H.R. 4020. That bill would direct the Secretary of Veterans Affairs to make increased grants to assist States in hiring and retaining their own nursing personnel at State-operated nursing homes for veterans. State homes that currently receive per diem payments from VA and have established employee incentive programs would be eligible to apply for incentive assistance and could receive up to 50 percent of the annual cost of the incentive program.

In the wake of the Civil War, State veterans' homes began caring for veterans and are now the largest provider of long-term care to our Nation's veterans. Today, over 16,000 veterans are being cared for in 128 State veterans' homes in 47 States in a key partnership between the States and the VA.

The Department of Health and Human Services (HHS) in 2002 surveyed the 50 States and Puerto Rico to learn how States are responding to needs for health care workers. Ninety percent reported a shortage of nursing staff as a major concern in their responses. In efforts to respond to these nursing and other health workforce shortages, 44 of 50 States reported establishing task forces and commissions to study and seek solutions. The focus of the task forces or commissions in 25 States was to study shortages in the long-term care work force.

While the HHS study documented the extent of the problems nationally, I am aware of difficulties that the three New Jersey State veterans' homes in Vineland, Paramus and Menlo Park have faced over the past several years in recruiting and retaining quality nursing staff. We can address this effort with new Federal incentives that supplement and assist State initiatives.

State homes are important partners in providing long-term care to veterans. I think this legislation provides a sound blending of authorities to help maintain quality nursing personnel for veterans cared for in both VA and State-run facilities.

Finally, H.R. 4231 would reform the qualification requirements for candidates for the position of Under Secretary for Health. Current law requires the Under Secretary for Health to be a doctor of medicine, limiting the pool of candidates that VA may consider for this vital executive position. Executives in the American health care industry who present exceptional credentials and experience, but did not receive a medical degree as a part of their preparation, are excluded by law from consideration. In fact, of the 62 top hospital, health insurance and managed care organizations in the United States, only five CEOs hold the doctor of medicine degree. H.R. 4231 would repeal the requirement for VA's Under Secretary for health to be a doctor of medicine. This change would allow a future Administration to consider candidates from the widest spectrum of executive talents, including doctors of medicine, nurses, dentists, health academics, health economists, insurance executives and other qualified candidates with the demonstrated abilities to fill such a key leadership role in veterans' affairs.

Mr. Speaker, this is a carefully crafted bill that will advance measures that are important to providing our veterans with quality health care services.

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

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

Mr. Speaker, I rise in support of H.R. 4231, as amended, the Department of Veterans Affairs Nursing Recruitment and Retention Act of 2004. This act has a variety of innovative approaches designed to assist the VA in managing its nursing workforce. The VA nurses are significantly older, on average, than nurses in other sectors; and more than one-third of the VA nursing staffs would be eligible for retirement in the next 5 years. Those are substantial figures.

In the meantime, fewer students are training for careers in nursing care, while the need for those professions is growing. This will make the VA effort to retain and recruit nurses critical in ensuring that it is able to maintain high-quality and accessible services.

This bill contains provisions to address the projected nursing shortage, including a pilot project to examine the effectiveness of new recruiting techniques and, in addition, new flexible work schedules that may be attractive to nurses with young children or those who are interested in full-time employment with seasonable breaks. State veterans homes, an important partner to our veterans health system, may also offer new educational opportunities to their nurses.

I want to take this time, Mr. Speaker, to recognize the gentleman from New Jersey (Chairman SMITH) and thank him and acknowledge the leadership of the chairman of our Subcommittee on Health, the gentleman from Connecticut (Mr. SIMMONS), in his efforts. I want to thank him and his staff in drafting this piece of legislation and working with me and us and all of us together to consider improvements to this particular bill.

I also once again want to thank the gentleman from New Jersey (Chairman SMITH) and the gentleman from Illinois (Ranking Member EVANS), who continues to be at this present time in the Committee on Armed Services as we speak. I urge my colleagues to support this bill.

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

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that the remainder of our time be controlled by the gentleman from Connecticut (Mr. SIMMONS), the distinguished chairman of the Subcommittee on Health, and just say how grateful I am for his sponsorship of this very important piece of legislation.

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

There was no objection.

Mr. SIMMONS. Mr. Speaker, I thank the gentleman for yielding me the time, I thank him for his leadership, and I thank the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), for all of his hard work.

Mr. Speaker, I yield myself such time as I may consume. I just want to take a few moments to focus on a couple of points that the chairman raised with regard to this legislation. Since 1966, the number of patients treated annually by the VA has risen by 70 percent.

During this same period of time of a growing demand for VA health services, the number of nursing program graduates nationwide began to fall. So at a time when the demand for services went up, the supply of nurses has been going down. The latest U.S. Health Resources and Services Administration report projects that the shortage of nurses this year will reach approximately 138,000 nurses.

We have received testimony before the Subcommittee on Health that the nurse vacancy rate at VA is currently at 9 percent and rising, in excess of 4,500 positions. In addition, the report found that the average VA nurse was nearly 49 years old, ahead of the national average for nurses, which is 42 years old. Now, while 49 years old may be young compared to my age and the age of some of my colleagues, I think that we have to see that there is a serious trend here when it comes to VA nurses. The VA is falling behind in its effort to staff these critical positions.

□ 1745

This legislation before us today would establish a pilot program within the VA to study the use of outside recruitment, advertising and communications techniques. Online technologies that are currently being used by 100 percent of the Fortune 500 companies to attract people into Fortune 500 companies, well, it can attract people into VA nursing.

Furthermore, the legislation includes provisions that allow nurses to have more control over their schedules and their private lives so their work schedules are less inflexible and the working conditions that they have are more congenial.

Another important provision is that the VA will be allowed to assist State nursing homes, that is, veterans facilities managed by States, to reduce shortages at long-term-care facilities operating under the authority of the VA but managed by the State. For example, in my home State of Connecticut, the Rocky Hill Home for veterans is engaged in a major program with the Veterans Administration to provide long-term care. This will include the construction of a 250-bed long-term-care facility, but it also includes partnering between the VA and the Connecticut Department of Veterans' Affairs so that the cost of that long-term nursing care is distributed between the State and the Federal Government.

Mr. Speaker, I want to express my appreciation to our chairman, to our ranking member, the gentleman from Illinois (Mr. EVANS) and to our staffs on the majority and minority staff, and to my colleague, the gentleman from Texas (Mr. RODRIGUEZ), and all the members of the committee and subcommittee for operating in a bipartisan fashion to bring this legislation forward for the benefit of our veterans.

Mr. Speaker, I see that there are no further speakers on my side, and I would be prepared to yield back, but I will give my colleague the opportunity to speak.

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

Mr. RODRIGUEZ. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER), my friend and fellow colleague, a member of the committee who has been a staunch supporter of veterans.

Mr. FILNER. Mr. Speaker, I thank the gentleman for the time, and Mr. Speaker, I also rise in support of this bill, H.R. 4231, to provide for nurse recruitment and retention for our Department of Veterans' Affairs.

We have heard that the VA is currently the largest employer of nurses in the United States, and with the growth in the number of veterans using the VA for their health care, the increase in the number of aging veterans and the projected national shortage of registered nurses, we must keep the VA competitive in the recruitment and retention of nurses.

So we have this bill, what we have heard described, establishing a pilot program that would study the use of outside recruitment, advertising and online technology to make the VA more competitive. We also know that the bill provides flexible work schedules to be more family-friendly and to allow nurses to take care of their family needs and personal needs and give them more control over their own schedules.

I thank very much the chairman of the committee for his strong statement on the provision that was in the original bill but is not now, but how we will go about making up for that; in the early drafts of the bill, an important provision clarified the status of nurses who meet the VA's qualification standards but do not have a baccalaureate degree. The National Council of State Boards of Nursing reports that the pass rates for licensing of nurses trained with associate and baccalaureate degrees are virtually identical. So to discriminate against nurses with 2-year degrees makes no sense and, of course, is counterproductive to our needs today.

As first drafted, H.R. 4231 committed to hiring nurses with associate degrees. It is not in the bill now, but as the chairman pointed out, a letter by the acting Under Secretary of Health at the VA, Mr. Perlin, and is now in the record to the Committee on Veterans Affairs' chairman and ranking member, outlined the plans of the VA to enhance the recruitment and hiring of associate-degree nurses. Committee on Veterans' Affairs members will be monitoring their progress.

Of course, the next step we need to take is to fix the promotion requirements for nurses in the VA so nurses with those associate degrees are eligible for promotions based on their competency, not their degree. This is a vital change that must be made in order to retain VA nurses, and I appreciate the gentleman from New Jersey's (Chairman SMITH's) strong statement of the need for competency-based promotion and not on the kind of degree.

All of us here today have made clear that health care for our Nation's veterans must be a high priority. This bill is a step forward in those efforts to provide the VA with the tools to recruit qualified nurses to care for our veterans, whether they are from World War II or to the present conflicts in Afghanistan and Iraq.

I urge support of H.R. 4231.

GENERAL LEAVE

Mr. SIMMONS. 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. 4231, as amended.

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

There was no objection.

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

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

Mr. SIMMONS. Mr. Speaker, this bill is responsible legislation that will advance quality health care for veterans, and I urge my colleagues to support H.R. 4231 as amended.

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

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

Let me first of all take this opportunity to thank the chairman, the gentleman from Connecticut (Mr. SIMMONS) for his efforts on this particular piece of legislation, and one of the beauties of this particular piece of legislation also is that it sets a trend. There is no doubt that in this country, and just like the VA's having difficulty with nurses, the entire country is having difficulty in getting nurses.

In addition to that, in the area of health professions, there will be a need for us to look at doctors. I know that we have a large number of slots in the area of doctors in the VA that have also not been filled. For some reason, this country has not produced the number of doctors that we need. We continue to produce 12,000 to 15,000 and bring in about 5,000 from abroad each year. In fact, right prior to 9/11, we brought in some 300,000 professionals from abroad, of which, in that category, was a little less than 5,000 doctors.

So we need to really begin to look, especially in the health profession and how it impacts the VA and these other areas, both these specialties, as well as physicians and the other health professionals that are needed.

So, once again, I want to thank everyone.

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

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

There may not be another opportunity with this session coming to a close to thank my colleague on the floor in the context of doing a bill for our veterans. His leadership in Veterans' Affairs has been extraordinary. The impact of his service on this committee will have a beneficial effect on millions and millions of veterans for many, many years to come, and I thank him for all of his hard work.

Mr. EVANS. Mr. Speaker, I rise in support of H.R. 4231.

It is a good bill that will give the Department of Veterans Affairs some new opportunities to meet the challenges of maintaining a strong nursing workforce during the severe nursing shortage projected for the near future.

I have said many times that nurses are the lifeblood of our medical care system.

VA should be looking at any and all feasible options for ensuring that it is able to satisfy the needs and expectations of these valuable employees.

I want to commend the chairman and ranking member of our Health Subcommittee for their work on this bill and urge Members to support it.

Mr. SIMMONS. 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 New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4231, 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. SIMMONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## COMMENDING FESTIVAL OF CHILDREN FOUNDATION

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 759) commending the Festival of Children Foundation for its outstanding efforts on behalf of children and expressing the support of the House of Representatives for the designation of a ''Child Awareness Month,'' as amended.

The Clerk read as follows:

H. RES. 759

Whereas children represent the Nation's future and numerous individuals and organizations across the United States devote precious time, energy, and resources to enrich that future by helping children advance their hopes and dreams and to realize their aspirations;

Whereas it is in the public interest to increase awareness of children's special needs and the demonstrably effective efforts of those making a real difference in children's lives, which in turn and over time will serve to strengthen the social fabric of our country;

Whereas the Festival of Children Foundation has been established in southern California (1) to showcase those non-profit groups performing exemplary works, so that they may through increased exposure secure and sustain the volunteer, leadership, and financial support necessary to be successful, (2) to provide a free resource to such groups so that they might more easily leverage scarce resources through creative, collaborative efforts to serve their shared constituencies for the betterment of the community at large, and (3) to provide a free and effective platform to facilitate such groups sharing lessons learned in bringing a results orientation to community mobilization, strategic planning, and overall best practices;

Whereas during the last two years more than 100 non-profit groups in southern California have benefited enormously from exposure they could not otherwise have received but for the Festival of Children Foundation, principally through programs and activities at partner organizations such as retail, commercial, and cultural centers;

Whereas September is a time, as children return to school, that families and the Nation as a whole are especially mindful of children and their special needs and opportunities; and

Whereas in September 2004 the Festival of Children Foundation, working with its partners, has invited 50 agencies and organizations that serve children throughout southern California to have a month of high profile exhibits along with another 50 such groups to participate in other programs and activities as part the Foundation's ongoing mission: Now, therefore, be it—

*Resolved,* That the House of Representatives commends the Festival of Children Foundation of southern California—

(1) for its outstanding efforts on behalf of children; and

(2) for the difference that it is making in the communities in which it is active and in the lives of children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

GENERAL LEAVE

Mr. OSBORNE. 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. Res. 759.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H. Res. 759 offered by the gentleman from California (Mr. ROHRABACHER). This resolution honors the Festival of Children Foundation for its outstanding efforts on behalf of children.

Children represent the Nation's future, and numerous individuals and organizations across the United States devote precious time, energy and resources to enrich that future by helping children advance their hopes and dreams and to realize their aspirations.

The Festival of Children Foundation is one such organization that has experienced overwhelming success serving the needs of children in the Orange County community. Through collaboration with numerous charities, the foundation seeks to improve the lives of children and families living in the community by fostering education, community involvement and the arts. Instead of operating independently, charities are able to pool both their resources and ideas to better serve the children and families of southern California.

The Festival of Children Foundation expands the reach of the nonprofits in their community, and their efforts on behalf of children should be emulated. I would like to take this opportunity to commend their work on behalf of children and also their efforts to increase awareness of children's special needs.

I thank my colleague from California for introducing this resolution and urge my colleagues to support it.

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

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

Mr. Speaker, Walt Disney once said that ''our greatest natural resource is the minds of our children.''

Today, we honor the Festival of Children Foundation, an organization that improves the lives of children and families in Orange County, California, by collaborating with local children's charities to promote education, community involvement and the arts.

In the last 2 years, more than 100 nonprofit groups in southern California have benefited enormously from the exposure, partnership and assistance of the Festival of Children Foundation. In particular, the foundation has declared September 2004 as a month to ''Celebrate the Magic of Childhood.'' It is working with 52 agencies and organizations to serve the children of southern California with high-profile exhibits to continue with the foundation's mission.

I would like to congratulate the foundation on its excellent work to strengthen their community and to benefit the lives of children, and I would like to thank the gentleman from California (Mr. ROHRABACHER) for introducing this meaningful legislation.

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

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

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I rise in strong support for my own bill, H. Res. 759 commending the Festival of Children. Millions of good-hearted American volunteers donate their time, their talent and their personal treasure to help lost and needy children, but no matter how noble the cause, these wonderful charities and their volunteers must struggle just to let the community know

what is available to those who are in need. Clearly, children's charities struggle to find private sources of money to sustain their benevolent programs.

Mr. Speaker, in Orange County, California, we are trying to do our best to do the best. Our needy children are put in this spotlight by a month-long event dedicated to assist organizations that are working with deprived and neglected children.

The Festival of Children Foundation hosts the activities of Child Awareness Month at South Coast Plaza in Costa Mesa, California, which is part of my district.

□ 1800

South Coast Plaza is a premier commercial and shopping location; yet with generosity and kindness, this center also becomes a center of love and caring for children.

There, among the upper crust and upper level stores and shops, you will find new ways during this month of helping children and helping those organizations that are designed to help children. Each year, during the month of September, scores of charities, like the Make-a-Wish Foundation and the Blind Children's Learning Center, are given tremendous support to come together under one roof, and not just one roof but under the roof of one of California's most visited shopping centers, to reach out to tens of thousands of families and then make a difference in the lives of multitudes of children.

Too often in our communities many families have not even been aware that certain charities exist; and at the same time, there are many who are willing to volunteer their energy and their resources to help these charities, yet they do not know these charities even exist. In the meantime, we see there are charities that spend much of their scarce resources that should be going directly to the children to overcome this gulf that separates them from both the donors and the needy.

Well, I take this problem very seriously, and I take caring for the children very seriously. I always have, but that has been brought home to me in a very special way, because yesterday marked the 5-month anniversary of the birth of my three children, my triplets, Amika, Christian, and Trestin. These are lovely little babies, but it certainly has impressed upon me that we need to care for all the babies. We need to make sure that all the children of this world can reach their potential and have a happy life.

And so I applaud those individuals who are engaged in this noble, noble effort. I especially applaud the individual initiative of Sandy Segerstrom Daniels, the founder of the Festival of Children. She took the initiative to form a private nonprofit organization bringing all of Orange County's children's charities together. She enlisted nationally known celebrities, like Arnold Schwarzenegger, Olivia Newton-John and Pat Riley, and others to boost the participation in the children's charities at the Festival of Children.

The effort has paid off. Hundreds of charities and thousands of families now look forward to the month of September when they can gather at the Festival of Children, there at the South Coast Plaza. I am pleased to see this example of a private initiative for a public charity is catching on and that the Festival of Children is expending into other States.

So with this pride in the accomplishment and the benevolence and the good hearts of some of my constituents, I ask my colleagues to join me in congratulating the Festival of Children.

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

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY), and I rise today in strong support of H. Res. 759, a bill that recognizes and commends the important work of the Festival of Children Foundation.

The Festival of Children Foundation is an umbrella organization that helps foster collaboration between children's charities in the areas of education, community involvement, and arts appreciation. I want to acknowledge Sandy Segerstrom Daniels, who is here with us today, for her work with respect to this festival.

We in Congress need to increase the public awareness of children's special needs and to recognize our local organizations who lead the way in providing the services in a very local way, in a very humane way, in a very loving way in our own districts, particularly through private and voluntary efforts. That is why I am a cosponsor of this bill with my friend and colleague, the gentleman from California (Mr. ROHRABACHER), and why I would urge my colleagues to support and to vote for this.

Through its extensive network of community organizations, the Festival of Children Foundation offers resources, such as training and workshops, operation and technical support, and planning for conferences and special events to over 100 organizations. The highlight of all these activities is the Festival of Children, a month-long celebration of children, featuring the work of local children's charities.

Just last year, over 55 children's organizations from Orange County, as well as a select group from Los Angeles County, gathered at the South Coast Plaza retail center in Costa Mesa, California, for exhibits, for lectures, presentations, and lots of entertainment. The event was cosponsored by South Coast Plaza, and again I thank the Segerstrom family and Children's Hospital of Orange County, which actually sits in my district, and featured groups such as Elizabeth Glaser Pediatric AIDS Foundation, Juvenile Diabetes Research Foundation, Make-a-Wish Foundation, Special Olympics, and the list goes on and on of all the people who participated to help our special kids in Orange County.

Over one million people visited South Coast Plaza during the festival. Not only did we have the festival going on, but of course there is great shopping there too; and we are very proud of that in Orange County. But the charities really reaped the rewards of this great opportunity because they were able to market themselves to our community. I, for example, have a young adult student organization that is a task force from all the high schools in my area, and they participate in trying to get their young people to these volunteer organizations because they have time on their hands. They just need to know the information. This is a great way when we hold this at South Coast Plaza.

In addition, all the programs that were presented that day were free to the public. The Orange County Board of Supervisors and the California legislature have already commended officially the Festival of Children and even recognized the month of September as Child Awareness Month.

I join my colleagues here today in recognizing the Festival of Children as a model for organizing communities to provide for the needs of their children.

Mr. DAVIS of Illinois. Mr. Speaker, Walt Disney once said that "Our greatest natural resource is the minds of our children." Today we honor the Festival of Children Foundation, an organization with the specific purpose to improve the lives of children and families throughout Orange County, California by fostering education, community involvement, and the arts by collaborating with local children's charities.

Through their hard work and efforts, the Festival of Children Foundation has been able to showcase the work of non-profit groups as a way to increase exposure and sustain volunteer, leadership and financial support for these groups. The Foundation, being an umbrella organization, has made it possible to serve as a free recourse to these groups by encouraging collaborative efforts to serve the community as well as a place for groups to share ideas and lessons on community mobilization, planning and overall best practices. In the last two years, over 100 non-profit groups in southern California have benefited enormously from the exposure, partnership and assistance from the Festival of Children Foundation.

As another way to truly reach out and assist children, the Festival of Children Foundation had declared September 2004 as a month to "Celebrate the Magic of Childhood," working with 52 agencies and organizations to serve the children of southern California with high profile exhibits to continue with the Foundation's mission.

I would like to congratulate the Foundation on their excellent work and assisting to strengthen their community—most importantly, their efforts to benefit the lives of children.

Mr. BOEHNER. Mr. Speaker, I rise as Chairman of the Education and Workforce Committee to add my voice to my voice to my distinguished California colleagues in paying tribute to the Festival of Children Foundation.

I believe the exceptional contributions and services of the Festival Foundation—both to the community and to the State of California—deserves national recognition. The Festival is a good example of private, non-profit groups and charities coming together to serve the public interest—in this case for the benefit of children. Mr. Speaker, the Education committee is always looking for children's programs that are creative, voluntary and community based. Helping our young people—whether it be in the area of children's education, health care, personal development or special needs—should be our highest calling.

This month-long Festival will bring together over 50 private, charitable organizations all under one roof. The goal is to improve collaboration, provide free resources and offer a forum for issues ranging from children's health care to the arts. It has become an invaluable resource for children's charities in Orange County, California.

I commend Sandy Segerstrom Daniels for her leadership in founding the Festival and the Foundation. It is truly a model for other communities in our country to follow.

Mr. CALVERT. Mr. Speaker, I strongly support this Resolution and to recognize the Festival of Children Foundation for its valuable service to the Orange County and Southern California communities.

As my colleagues said, the Foundation is an umbrella group with the specific purpose to improve the lives of children and families. Sandy Segerstrom Daniels, the founder, has had the vision and commitment to create the Festival and the ability to bring together people and organizations devoted to children's issues.

Groups involved in the fields of health, education and the arts all collaborate in the Festival. Lectures, exhibits and information booths at South Coast Plaza take place for the entire month of September. I credit the Festival for increasing public awareness of children's issues and for providing opportunities for the public and non-profit organizations to donate their time and resources. I am told that over two million visitors have seen the Festival's exhibits in the past.

Because of the success of the Festival, the California State Assembly and the Orange County Board of Supervisors have taken official actions commending the Festival. I believe it is now fitting and timely for the U.S. Congress to also recognize the Festival of Children by this Resolution.

I encourage all my colleagues to support the Resolution and thank my colleague DANA ROHRABACHER for presenting the Resolution.

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

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

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the resolution, H. Res. 759, as amended.

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

The title was amended so as to read: ''A resolution commending the Festival of Children Foundation for its outstanding efforts on behalf of children''.

A motion to reconsider was laid on the table.

## COMMEMORATING THE 100TH ANNIVERSARY OF THE BIRTH OF WILLIAM ''COUNT'' BASIE AND ACKNOWLEDGING HIS CONTRIBUTIONS TO JAZZ AND SWING MUSIC

Mr. BURNS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 778) commemorating the 100th anniversary of the birth of William ''Count'' Basie and acknowledging his important contributions to jazz and swing music.

The Clerk read as follows:

H. RES. 778

Whereas on August 21, 1904, renowned pianist and bandleader William ''Count'' Basie was born in Red Bank, New Jersey;

Whereas in 1924, William ''Count'' Basie moved to New York City and, under the influence of James P. Johnson and Thomas ''Fats'' Waller, learned the style of piano known as stride piano, a contrasting constant beat from the left hand with a melodious right hand;

Whereas in 1927, William ''Count'' Basie's vibrant musical career took off when he moved to Kansas City, Missouri, and joined Walter Page's Blue Devils Band;

Whereas William ''Count'' Basie joined the Bennie Morton Band, and took over as bandleader in 1935, renaming the band ''Count Basie and his Cherry Blossom Orchestra'';

Whereas Count Basie and his Cherry Blossom Orchestra disbanded, but eventually reformed as the ''Count Basie Orchestra'';

Whereas the Count Basie Orchestra dominated the realms of jazz and swing for several decades;

Whereas the music of William ''Count'' Basie and the Count Basie Orchestra solidified the bond between the musical fashion of jazz and the mournful sounds of the blues;

Whereas William ''Count'' Basie and the Count Basie Orchestra established swing as a predominant force in the musical tastes of generations;

Whereas the music of William ''Count'' Basie maintained a lightness and precision that has set the tone for modern jazz accompanying styles;

Whereas William ''Count'' Basie perfected a style of piano known as comping, a syncopated and highly precise style of chords on the piano;

Whereas William ''Count'' Basie's most famous pieces included ''One O'clock Jump'', ''Swingin' the Blues'', ''Jumpin' at the Woodside'', ''April in Paris'', ''Shiny Stockings'', and ''Every Day I Have the Blues'';

Whereas in 1983, William ''Count'' Basie was awarded an American Jazz Masters Award by the National Endowment for the Arts;

Whereas in 1984, in honor of William ''Count'' Basie's accomplishments, an historic theater in his hometown of Red Bank, New Jersey, was renamed the ''Count Basie Theatre'';

Whereas in 1996, the United States Postal Service issued a commemorative postage stamp in honor of William ''Count'' Basie;

Whereas the National Academy of Recording Arts and Sciences awarded William ''Count'' Basie 9 Grammy Awards throughout his career, as well as the Grammy Trustees Award in 1981, and the Lifetime Achievement Award in 2002; and

Whereas William ''Count'' Basie passed away on April 26, 1984, leaving his music and the Count Basie Orchestra as vivid reminders of his brilliant talent and influential career: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) commemorates the 100th anniversary of the birth of William ''Count'' Basie; and

(2) acknowledges the important contributions of William ''Count'' Basie to jazz and swing music.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 778.

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

There was no objection.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of House Resolution 778, offered by the gentleman from New Jersey (Mr. PALLONE), commemorating the 100th anniversary of the birth of William ''Count'' Basie, and acknowledging his important contributions to jazz and swing music.

William ''Count'' Basie was born in Red Bank, New Jersey, on August 21, 1904. His vibrant musical career took off in 1927 when he moved to Kansas City, Missouri, and joined Walter Page's Blue Devils Band. From there, William ''Count'' Basie joined the Bennie Morton Band and took over as band leader in 1935, renaming the band the Count Basie and his Cherry Blossom Orchestra.

Count Basie and his Cherry Blossom Orchestra disbanded, but eventually reformed as the Count Basie Orchestra, which went on to dominate the realms of jazz and swing for several decades. The Count Basie Orchestra established swing as a predominant force in the musical taste of generations, and their music set the tone for modern jazz.

In 1983, William ''Count'' Basie was awarded an American Jazz Masters Award by the National Endowment for the Arts. A historic theater in his hometown of Red Bank, New Jersey, was renamed the Count Basie Theater in 1984, and the United States Postal Service issued a commemorative stamp in his honor in 1996.

Over the years, the National Academy of Recording Arts and Sciences awarded William ''Count'' Basie nine Grammy Awards, which led to a Lifetime Achievement Award in 2002.

House Resolution 778 commemorates the 100th anniversary of the birth of William ''Count'' Basie and acknowledges his important contributions to jazz and swing music. Mr. Speaker, I

urge my colleagues to support this resolution.

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

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

Mr. Speaker, today we celebrate the life of William ''Count'' Basie and his influence on jazz and swing music. Born in Red Bank, New Jersey, Count Basie began to learn the piano under his mother's direction. In 1924, he moved to New York City to perfect his talent and begin his remarkable career.

Throughout the years, he developed and advanced his own music style. In 1935, Count Basie formed his own nine-piece group called the Barons of Rhythm. The Barons of Rhythm's style was a powerful one. This earned Basie the nickname ''Count.'' By the end of the 1930s, the band was one of the most popular in the world, with hits like ''One O'clock Jump'' and ''Jumpin' At the Woodside.''

Count Basie continued to share his talent with the world through the 1970s. In 1985, one year after his death, President Reagan awarded him the Presidential Medal of Freedom. In 1996, the U.S. Post Office honored him with a commemorative stamp.

Today, Mr. Speaker, we honor the 100th anniversary of the birth of Count Basie and acknowledge the tremendous impact he had on music. I congratulate our colleague, the gentleman from New Jersey (Mr. PALLONE), for this legislation.

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

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

Ms. WOOLSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I thank my colleague, the gentlewoman from California (Ms. WOOLSEY), for yielding me this time and for her role in bringing this resolution up on the suspension list today.

It is with distinct honor and pleasure that I stand before this Chamber today to speak in support of House Resolution 778. Count Basie was born in my district and spent the first 20 years or so of his life in my district, and I would like to kind of recount some of the events that occurred in my district during those early years.

This bill recognizes and celebrates the incredible contribution that William ''Count'' Basie has made to jazz and swing music. Furthermore, it is only fitting we acknowledge his pivotal role this year, marking the 100th anniversary of his birth.

He was born, as was stated previously by my colleagues, on August 21, 1904, in his parents' home on Mechanic Streets in Red Bank, New Jersey, which has been in my district the entire time I have been in Congress, and even prior to the time I represented the area. And Count Basie is highly regarded in our area, as well as obviously nationally, as one of the best and most influential musicians and composers of the last century.

The city of Red Bank, where he was born, gave the young William Basie his first exposure to music and the title of one of the most famous tunes associated with his band, ''The Kid From Red Bank''; and it is evidence the city of Red Bank has had on his early musical development.

As a child, Basie would do chores at the Palace Theater in Red Bank so that he could get in free. One day when the Palace's house piano player was unable to travel from New York, Basie offered to fill in for him, but the manager declined the offer. Basie simply waited until the picture had started, then snuck into the pit and accompanied the film anyway on the piano. He was invited back to play the evening show.

Years later, Basie would trace his lifelong interest in the organ to his experiences at the Lyric Theater, another theater in Red Bank, New Jersey, where he would listen to the organ played by Henry La Ross.

Many are surprised to learn that William Basie's first love was not the piano, but rather the drums. However, his aspiration went towards a different direction when he met Sonny Greer, a young talented drummer from nearby Long Branch, New Jersey, which is actually my hometown. The young men quickly realized where their true respective talents really laid, and the drums and piano duo went on to win first place in an Asbury Park piano competition, one of the first of many honors bestowed upon Basie throughout his career.

Asbury Park is also in my district, Mr. Speaker, and some of my colleagues know that Asbury Park was made famous also by Bruce Springstein, another one of our constituents.

□ 1815

Count Basie was awarded with a total of nine Grammys throughout his career, including the Grammy Trustees Award from the National Academy of Recording Arts and Sciences in 1981. In addition, he was the recipient of an American Jazz Masters Award from the National Endowment of the Arts in 1983, and in 1996, he was bestowed the honor of a Commemorative Stamp by the United States Postal Office. And I assure Members myself and many others in my district have lots of those stamps.

Today, the Count Basie Theater in Red Bank, New Jersey stands as a testament to the life, career and accomplishments of this innovative and ingenious musician. In 1984, the historic theater, which first opened its doors in 1926, was renamed to honor Count Basie. Much of the theater has been preserved and remains true to its original appearance. The theater is now owned and operated by Count Basie Theater, Inc., a nonprofit corporation formed solely to operate the theater for the benefit of the community, and one cannot help but think this is exactly how the ''Kid from Red Bank'' would have liked it.

Mr. Speaker, once again I ask my colleagues to vote in favor of this resolution and pay tribute to the life and career of an individual who revolutionized the face of jazz music and to this day stands as a model for all those who have followed him.

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

Mr. BURNS. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for introducing H. Res. 778, and urge my colleagues to support this resolution.

Mr. HOLT. Mr. Speaker, today I rise to commemorate the 100th anniversary of the birth of William "Count" Basie, one of the leading figures of the swing era in jazz. Bandleader of the renowned Count Basie Orchestra, Basie was integral in establishing swing as the popular music of subsequent generations. His orchestra was a unique band during a unique time in the history of jazz and American music.

Born in Red Bank, New Jersey on August 24, 1904, William "Count" Basie took an interest in music at an early age. He honed his skills on both the piano and drums in local theatres in Red Bank before moving to New York in 1924, at the age of twenty. It was in New York where he was influenced by two of the greatest early jazz pianists, James P. Johnson and Thomas "Fats" Waller. In 1927, Basie moved to Kansas City, Missouri to capitalize on its nascent jazz scene. He first joined the Blue Devils Band, but soon after he became a member of the famed Benny Moten Orchestra. Basie later took over as bandleader of Moten's orchestra, which was renamed the Count Basie Orchestra.

In 1937, Basie and his orchestra moved to New York City and established their home base in Harlem, where they became one of the leading big bands of the era. Basie's orchestra was best known for its unique "Kansas City Sound," exemplified in such works as, "One O'clock Jump" and "Swingin' the Blues."

Throughout his career, "Count" Basie received nine Grammy awards as well as a Grammy Trustee award in 1981; he was also posthumously recognized for lifetime achievement in 2002. William "Count" Basie was an extremely talented and ambitious musician and bandleader; his influence has persisted throughout time and among many different generations. He made many important contributions to swing, jazz, and American music. Let us honor this great musician and man today. Central New Jerseyans are proud to say "such as he came from among us."

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today in support of H. Res. 778, a resolution to commemorate the 100th anniversary of the birth of William "Count" Basie, one of America's premier swing musicians who rose to national prominence as a jazz pioneer while playing at the Club Reno in Kansas City.

Born an only child on August 21, 1904 in Red Bank, New Jersey, Basie moved to Harlem in 1920 to pursue a career in jazz music. An aspiring pianist, he soon met Thomas "Fats" Waller and developed a style of piano

improvisation called "comping," where he would play a standard chord progression with his left hand, but improvise a melody with his right hand. He soon began touring the country with a variety show, "Gonzel White and the Big Jamboree."

In 1927, Basie was stranded in Kansas City when the tour went bust. After playing silent theatres, he joined Walter Paige's "Blue Devils," a well-known performance ensemble in the city. In 1929, he used his reputation and contacts to secure a spot as arranger and backup pianist with the Bennie Moten band, a local mainstay. During an internal dispute about an engagement at the Cherry Blossom club, the band voted to kick out Moten and install Basie as its new leader.

The new band called themselves "Count Basie and his Cherry Blossom Orchestra," marking the first time with Basie was billed as "Count." After a few months with his new orchestra, Basie reunited with Moten's new band, which he then took over in 1935 following Moten's death. Basie and saxophonist Buster Smith brought in former members of the Blue Devils and created a nine piece orchestra called "Count Basie and His Barons of Rhythm."

Under Basie, the band perfected a sound based on syncopated rhythms and simple musical themes. These arrangements produced light, straightforward and uncomplicated music that was a marked contrast to the style of many other jazz groups of the time, who tended to employ complicated melodies and layers of improvisation. That style of music became known as the "Kansas City Sound."

On the popularity of their new sound, Basie's band played a long engagement at the Club Reno in Kansas City, which turned out to be a critical turning point in Basie's career. Basie performed nightly from 8 p.m. to 4 a.m. The Club Reno performances were broadcast nationally over radio WXBY from 11:15 p.m. until midnight, offering exposure far beyond that of the nascent Kansas City jazz scene.

In Chicago, a young music writer and promoter named John Hammond heard the broadcast on shortwave radio and took an immediate interest in the Basie band. After writing several articles about the band, he traveled to Kansas City to meet Basie and a life long friendship was formed.

Hammond arranged for a national booking deal with MCA and a record deal with Decca Records, and by 1937 an enlarged thirteen piece band known as the Count Basie Orchestra had become one of the country's leading big bands. Over the next 13 years the band toured and recorded relentlessly, delivering the Kansas City jazz sound to all corners of the country. During this period, Basie and his orchestra were featured in five movies and headlined the famous "Spirituals to Swing" series from 1938 to 1939, one of the first Carnegie Hall productions to present African American performers to a predominantly white audience.

Later in his career, Basie performed with a number of famous performers, from saxophone player Lester Young to trumpeter Dizzy Gillespie to crooner Frank Sinatra. He received nine Grammy awards, the Grammy Trustee's Award and the American Jazz Masters Award in 1983 from the National Endowment for the Arts. His songs "One O'Clock Jump" and "Everyday I have the Blues" are included in the Grammy Hall of Fame.

Though Count Basie died from cancer on April 26, 1984, he is still considered one of the premier jazz greats. The Count Basie band was featured in famous Kansas City Filmmaker Robert Altman's movie "Jazz '34." Just 2 years ago in 2002, 18 years after his death, a tribute album entitled "Homage to Basie" won the Grammy award for Best Large Jazz Ensemble Album.

Over the course of a career that spanned seven decades, Basie's style of Kansas City swing became a prominent fixture in jazz repertoire. His legacy continues to inspire new generations of jazz musicians and remind new performers of the important role Kansas City played in American musical history.

This past August 21st, I had the honor of hearing two Kansas City jazz greats and former members of Basie's famous group, pianist Jay McShann and trumpeter Clark Terry. They joined Bobby Watson and the "18th and Vine Big Band" to perform a tribute that was broadcast worldwide on National Public Radio. Sponsored by Kansas City's American Jazz Museum, the live performance sold out Kansas City's historic Gem Theatre. For his contributions to American music, and his role in bringing the Kansas City jazz sound to the wider world, I join my colleagues in commemorating Count Basie's enduring legacy.

Mr. DAVIS of Illinois. Mr. Speaker, today we celebrate the life of William "Count" Basie and his influence on jazz and swing music. Born in Red Bank, New Jersey, William "Count" Basie began to learn the piano under his mother's direction. In 1924, he moved to New York City to perfect his talent and begin his remarkable career. In 1927, Count Basie began playing piano accompaniment to silent movies. He then joined Walter Page's Blue Devils and from there along with several other members joined Bernie Moten's Kansas City Band. Throughout the years, he was developing and advancing his own music style. In 1935, Basie formed his own 9 piece group, Barons of Rhythm, gaining much attention from live appearances. The Barons of Rhythm style was a powerful swing, intensified by Basie's frequent playing with the rhythm section alone using short phrases called "riffs" exchanged back and forth between sections, giving the band a unique sound and identity. This raised Basie's stature in the community onto an even keel with Duke Ellington, earning him the nickname "Count". By the end of the 1930s, the Basie band was one of the most popular in the world, with massive hits like "One O'clock Jump" and "Jumpin at the Woodside."

William "Count" Basie continued to share his talent with the world through the 1970s. One year after his death, on May 23, 1985, Basie was awarded the Presidential Medal of Freedom by President Ronald Reagan. He was also honored in 1996 with a United States Postal Service commemorative postage stamp. Mr. Speaker, we honor the 100th anniversary of the birth of Count Basie and acknowledge the tremendous impact he had on music.

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

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the resolution, H. Res. 778.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## HONORING LIFE AND WORK OF DUKE ELLINGTON

Mr. BURNS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 501) honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

The Clerk read as follows:

H. CON. RES. 501

Whereas jazz music is America's classical music and is an art form that is indigenous to the United States;

Whereas the influence of jazz has spread across the world and jazz truly incorporates and transcends differences of nationality, religion, language, culture, socioeconomic status, and race;

Whereas Edward Kennedy "Duke" Ellington, who was born on April 29, 1899 in Washington, D.C., and died on May 24, 1974 in New York City, was one of the pioneers of jazz music;

Whereas Duke Ellington formed his first band in 1917;

Whereas over the course of his 50-year musical career, Duke Ellington took jazz to the farthest corners of the world, performing in Europe, the Soviet Union, Japan, and Australia during the 1960's on diplomatic tours sponsored by the Department of State;

Whereas among his numerous other public honors, Duke Ellington was appointed to the National Council on the Arts in 1968, received the President's Gold Medal in 1966 from President Lyndon Johnson, and was awarded the Presidential Medal of Freedom, the highest honor a civilian can receive in the United States, in 1969;

Whereas Duke Ellington has also received many awards and honors from private entities, including 13 GRAMMY Awards from the National Academy of Recording Arts and Sciences over 40 years, the Pied Piper Award from the American Society of Composers, Authors, and Publishers in 1968, and honorary doctoral degrees from 16 institutions;

Whereas after the death of Duke Ellington, Western High School in Washington, D.C., was renamed the Duke Ellington School of the Arts and is celebrating its 30th anniversary this year;

Whereas the House of Representatives has declared that jazz is a rare and valuable national treasure that deserves attention, support, and resources to ensure that it is preserved, understood, and promulgated;

Whereas Washington, D.C., does not currently host its own jazz festival;

Whereas Charles Fishman, who was Dizzy Gillespie's personal manager and producer until his death and is highly regarded in the jazz world, has established the Duke Ellington Jazz Festival, a non-profit organization which will produce an annual Duke Ellington Jazz Festival in Washington, D.C., beginning in 2005;

Whereas Duke Ellington Jazz Festival will consist of events across Washington, D.C., over a number of days, most of which will be free of charge, and will culminate in 2 days of concerts on the National Mall;

Whereas the rich musical legacy, international character, and diverse community of Washington, D.C. make it the ideal city to host a world-class international jazz festival; and

Whereas the Duke Ellington Jazz Festival will soon become known as one of the leading jazz festivals in the world, showcasing the best in jazz music in the shadow of the United States Capitol: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) honors the life and work of Duke Ellington and his immortal contributions to American and world music;

(2) recognizes the Duke Ellington School of the Arts in Washington, D.C., on the occasion of its 30th anniversary; and

(3) supports the annual Duke Ellington Jazz Festival to be held in Washington, D.C., beginning in 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 501.

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

There was no objection.

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

Mr. Speaker, I rise in support of House Concurrent Resolution 501 offered by the gentlewoman from the District of Columbia (Ms. NORTON) which honors the life and work of Duke Ellington, recognizes the 30th anniversary of the Duke Ellington School of the Arts and supports the annual Duke Ellington Jazz Festival.

Edward Kennedy ''Duke'' Ellington was born on April 29, 1899 in Washington, D.C., and formed his first band in 1917. Over the course of his 50-year musical career, Duke Ellington pioneered jazz music and took it to the farthest corners of the world, performing diplomatic tours in Europe, the Soviet Union, Japan and Australia.

Among his numerous other public honors, Duke Ellington was appointed to the National Council of the Arts in 1968, received the President's Gold Medal in 1966 from President Lyndon Johnson, and was awarded the Presidential Medal of Freedom, the highest honor a civilian can receive in the United States, in 1969 from President Nixon.

During his distinguished career, Duke Ellington received many awards and honors from private entities, including 13 Grammy Awards from the National Academy of Recording Arts and Sciences, the Pied Piper Award from the American Society of Composers, Authors and Publishers, and honorary doctoral degrees from 16 different institutions.

Sadly, Duke Ellington died on May 24, 1974 in New York City. After his death, Western High School in Washington, D.C. was renamed the Duke Ellington School of the Arts, home of the famous Hexagon Theater.

This school seeks to meet the needs of talented students who are considering careers in the arts by providing intensive arts instruction through arts programs of the highest quality, and strong academic programs that help each student meet the intellectual and artistic challenges of their future.

Unfortunately, Washington, D.C. does not currently host its own jazz festival. However, Charles Fishman, who was Dizzy Gillespie's personal manager and producer until his death, and is highly regarded in the jazz world, has established the Duke Ellington Jazz Festival, a nonprofit organization which will produce an annual Duke Ellington Jazz Festival in Washington, D.C. beginning in 2005.

Because of the District of Columbia's rich musical legacy, international character, and diverse community, it is an ideal city to host a world-class international jazz festival.

House Concurrent Resolution 501 does three things. First, it honors the life and work of Duke Ellington and his immortal contributions to American and world music. Second, it recognizes the Duke Ellington School of the Arts in Washington, D.C. on the occasion of its 30th anniversary. Finally, this resolution supports the annual Duke Ellington Jazz Festival to be held in Washington, D.C. beginning in 2005.

Mr. Speaker, I urge my colleagues to support this resolution.

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

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

Mr. Speaker, Duke Ellington has been called the ''quintessential American composer'' and is one of the greats of world music history. He brought a great deal of refinement and elegance to jazz.

His first piano lessons began around the age of 7, but it took seeing a few great live performances to cement his commitment to music. The Duke found piano playing jobs at clubs and cafes throughout the Washington, D.C. area. In late 1917, he formed his first group. By the late 1920s, his band became the most sought after band in the United States. Duke Ellington and his band played everywhere from New York to New Delhi, Chicago to Cairo, Los Angeles to London. Duke Ellington and his band played with Miles Davis, Cab Calloway, Dizzy Gillespie, Ella Fitzgerald, Tony Bennett, and Louis Armstrong, and entertained everyone from queens to Presidents.

Thirty years ago, Washington, D.C. honored the Duke by renaming a high school the Duke Ellington School of Arts. I am pleased that today we will again honor the Duke by passing this resolution which came to us through the gentlewoman from the District of Columbia (Ms. NORTON) who knows good music when she hears it. This resolution commemorates Duke Ellington's life and work, and supports the annual Duke Ellington Jazz Festival on the mall.

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

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

Ms. WOOLSEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding me this time, and also for her help on this bill. I thank the gentleman from Georgia who is managing the bill for his excellent statement and for bringing the bill forward.

I also would like to begin by thanking my good friends who have taken a special interest in this bill, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. TOM DAVIS), as well as the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the ranking member, for scheduling this resolution.

I rise today to honor the 30th anniversary of the Duke Ellington High School named for the legendary composer and musician, the great Duke Ellington, a native son of the District of Columbia. The genius and artistry of Duke Ellington and his fabulous 50-year career are universally recognized. Many of today's musicians, from a variety of genres, but most especially jazz, look to Ellington as the world-class leader of the American classic, jazz.

I am pleased to recognize his achievements during the 30th year anniversary of the Duke Ellington School of the Arts, a nationally acclaimed high school that trains talented area students in a variety of arts such as dance, theater, instrumental music and the visual arts. The Duke Ellington School of the Arts operates in the tradition of Ellington excellence. It has a partnership with the John F. Kennedy Center for the Performing Arts and offers a college preparatory curriculum with advanced placement courses and professional artistic training. Students perform and work at professional-quality levels. Its graduates, such as the famous soprano, Denise Graves, have carried the Ellington tradition proudly into the arts. The work of students and graduates alike have shown that the high school is worthy of the Ellington name.

Duke Ellington was much celebrated during his glittering career. He was a recipient of the President's Gold Medal in 1966 and of the Presidential Medal of Freedom in 1969. He won 13 Grammy awards and numerous honors from organization all over the world. His music gave rise to the famed Cotton Club, which showcased jazz talent from Sarah Vaughn to Ella Fitzgerald to Dizzy Gillespie and Louis Armstrong.

The popularity of jazz music that he helped spread spawned the creation of Blue Note Records, the influential jazz recording label which is marking its 65th anniversary this year. Music critics have been writing about jazz in the

equally important Downbeat Magazine which is celebrating its 70th anniversary.

Jazz is our much-celebrated unique American treasure, and Ellington was the leader of the band. We are particularly pleased to recognize the Duke Ellington Jazz Festival which will begin next fall. It will feature a number of artistic events culminating in 2 days of concerts on the National Mall. It is especially fitting this festival will take place here in the Nation's Capital, Duke Ellington's birthplace and the city that nurtured his talent on the 30th anniversary of the extraordinary high school named for the Duke.

Mr. Speaker, I urge my colleagues to vote for and support H. Con. Res. 501.

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

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

Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) and the gentlewoman from the District of Columbia (Ms. NORTON) for bringing H. Con. Res. 501 to the floor today. I urge my colleagues to support this measure. All of us have been impacted by the life and work of Duke Ellington.

Mr. DAVIS of Illinois. Mr. Speaker, he has been called the "quintessential American composer" and considered to be one of "great musicians along with Bach and Beethoven and Shoenberg." Duke Ellington brought a level of refinement and elegance to jazz.

The Duke's first piano lessons began around the age of seven—but like many youngsters—he was more interested in going to the Washington Senators baseball games than practicing. It took seeing a few great live performances, even sneaking out of school to seek out and listen to ragtime pianists in Washington and, during the summers, in Philadelphia or Atlantic City, where he and his mother vacationed. Duke was taken under the wings of Oliver "Doc" Perry and Louis Brown, who taught Duke how to read music and helped improve his overall piano playing skills. Duke found piano playing jobs at clubs and cafes throughout the Washington area.

In late 1917, Duke formed his first group: The Duke's Serenaders, which years later was renamed as The Washingtonians. By the late 1920s, Duke's band became the most sought-after band in the United States and even throughout the world. Duke Ellington and his band went on to play everywhere from New York to New Delhi, Chicago to Cairo, and Los Angeles to London. Ellington and his band played with such greats as Miles Davis, Cab Calloway, Dizzy Gillespie, Ella Fitzgerald, Tony Bennett and Louis Armstrong. They entertained everyone from Queen Elizabeth II to President Nixon.

Duke Ellington did not just make an impact on music to the world, but he made his hometown of Washington, DC, proud. Thirty years ago Washington, DC, honored him by renaming one high school the Duke Ellington School of the Arts. It only makes sense that in 2005, Washington, DC, will be able to honor The Duke of Jazz once again by hosting 2 days of concerts on the National Mall each year as the Duke Ellington Jazz Festival.

Mr. BURNS. 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 Georgia (Mr. BURNS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 501.

The question was taken.

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

Ms. WOOLSEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## HONORING UNITED NEGRO COLLEGE FUND ON 60TH ANNIVERSARY

Mr. BONNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 792) honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary and the Fund's unflagging dedication to enhancing top-quality college opportunities to millions of students.

The Clerk read as follows:

H. Res. 792

Whereas the United Negro College Fund was founded on April 26, 1944, with 27 member colleges under the leadership of Dr. Frederick D. Patterson;

Whereas the United Negro College Fund is the Nation's largest, oldest, most successful, and most comprehensive minority higher education assistance organization;

Whereas the United Negro College Fund's mission is to enhance the quality of education by providing financial assistance to deserving students, raising operating funds for member colleges and universities, and increasing access to technology for students and faculty at historically black colleges and universities;

Whereas over 60 years, the United Negro College Fund has raised more than $2.3 billion to assist a total of more than 300,000 students attend college;

Whereas the United Negro College Fund administers more than 450 scholarships and fellowships for students and faculty, who attend more than 950 colleges and universities throughout the nation;

Whereas the United Negro College Fund has distributed more funds to help minorities attend school than any entity outside of the federal government;

Whereas the United Negro College Fund provides key support to historically black colleges and universities as a means to keep tuition down to a rate half that of tuition at comparable schools, while its member institutions provide a quality education to students, many of whom are the first in their families to attend college and are from low-income families;

Whereas both the Non-Profit Times and the Chronicle of Philanthropy rank the United Negro College Fund among the top ten charitable education organizations in the country, and Barron's ranks it as the number one educational charity in terms of efficiency in distributing funds raised;

Whereas the United Negro College Fund provides operational funds, technology enhancement services, and advanced training for faculty and administrators for its member institutions;

Whereas the United Negro College Fund's member institutions enroll seven percent of African American college students nationwide;

Whereas the United Negro College Fund's colleges and universities are the top producers of successful medical school applicants; and

Whereas the United Negro College Fund has contributed immeasurably to the nation by producing countless graduates who have contributed to our communities as nurses, teachers, civil servants, business leaders, doctors, lawyers, elected officials, and community leaders: Now, therefore, be it

*Resolved*, That the House of Representatives recognizes the United Negro College Fund, on the occasion of its 60th anniversary, for the Fund's outstanding commitment towards providing a quality education for minority and low-income students and towards strengthening our communities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

□ 1830

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 792.

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

There was no objection.

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

I rise in support of H. Res. 792, honoring the United Negro College Fund on the occasion of the fund's 60th anniversary. I want to thank the gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce, for bringing this resolution to the floor of the House. All members on our committee recognize the important role that Historically Black Colleges and Universities play in the postsecondary education environment. Moreover, we recognize the dedication and commitment the United Negro College Fund has made to enhance top-quality college opportunities for millions of students.

In my home district, I have two historically black institutions, Paine College in Augusta, Georgia, and Savannah State University in Savannah, two of our State's leading institutions of higher education. The United Negro College Fund is the Nation's oldest and largest minority higher education assistance organization that has helped to raise more than $2.3 billion to assist over 300,000 students attend college.

Not only does the United Negro College Fund have a mission to enhance the quality of education by providing financial assistance to students but the organization raises operating funds for member colleges and universities and increases access to technology for students and faculty at HBCUs. Additionally, the United Negro College Fund

ensures that first-generation college students have the resources and support they need to pursue the dream of a college education. The contributions made by the United Negro College Fund and its member institutions are undeniable. UNCF member institutions enroll 7 percent of African American college students nationwide and are responsible for producing a significant number of all bachelor's, master's and professional degrees earned by African Americans. In many instances, UNCF member institutions do not have access to the resources or endowment income that other institutions can draw upon. Despite this, with the assistance of UNCF, these institutions tend to keep their tuitions affordable in comparison with other institutions of higher education.

For over 60 years, the United Negro College Fund has made it possible for students to pursue the dream of higher education, and the organization has ensured that its member institutions have the resources and support to provide students with educational opportunities. I urge my colleagues to recognize and honor the important contributions that have been made by the United Negro College Fund, its member institutions, and their graduates and to vote ''yes'' on this worthy resolution.

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

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

I rise in the place of the gentleman from California (Mr. GEORGE MILLER), our Education and Workforce ranking member, in strong support of this resolution and to honor the United Negro College Fund on the occasion of the fund's 60th anniversary. Founded in 1944 by Dr. Frederick Patterson, the United Negro College Fund is the Nation's largest, oldest, most successful and most comprehensive minority education assistance organization. The United Negro College Fund has long been a forerunner in recognizing the importance of a quality education for both individuals and for the greater good of society. Just as millions of students, particularly minority and low-income students, struggle to pay for a college education, the fund continues to enhance the quality of education by providing college aid to deserving students. In fact, the United Negro College Fund has raised over $2 billion towards helping more than 300,000 students attend college.

Over the past 60 years, the fund has distributed more funds to help minority students attend school than any other organization outside of the Federal Government. In addition, the fund continues to provide critical support to Historically Black Colleges and Universities as a means to keep tuition down to a rate that is about half that at comparable schools and to continue to provide a quality education. If not for their important work and investments, many students in my own district would be unable to attend college.

The United Negro College Fund is also dedicated to raising operating funds for Historically Black Colleges and Universities and to boosting access to technology for students and faculty at these institutions. These funds help to ensure that students have access to quality academic student support services and to new technologies necessary to prepare them for careers in science, medicine, and public safety. The United Negro College Fund has contributed immensely to the Nation by producing graduates who have given back to their communities as nurses, teachers, elected officials, civil servants, community leaders, and doctors.

I commend the United Negro College Fund on its 60th anniversary for its outstanding commitment toward providing a quality education for minority and low-income students and towards strengthening our communities.

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

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentlewoman from California who is controlling this piece of legislation for yielding me this time.

Mr. Speaker, today I rise to congratulate the United Negro College Fund on its 60th anniversary. I would like to thank my colleague from California (Mr. GEORGE MILLER) for sponsoring this legislation.

Mr. Speaker, ''A mind is a terrible thing to waste.'' These words have long been associated with the strength and commitment of the UNCF. In providing financial assistance to students, raising operating funds for Historically Black Colleges and Universities, and increasing access to technology at these schools, the UNCF has assured that a student with a dedicated mind will not be wasted. From its formation in 1944, UNCF has grown to become the Nation's oldest and most successful African American higher education assistance organization.

Currently, Mr. Speaker, of the 65,000 students UNCF supports at 1,000 colleges and universities, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000. So it is evident that without this vital assistance, these students would be left out of sharing in the American Dream.

In administering over 450 scholarships and fellowships supporting students at the undergraduate, graduate and doctoral level, the United Negro College Fund makes lasting contributions to our Nation. The funding provided to students builds successful careers in the many areas that are essential to increasing the competitiveness of the United States in the world community.

It is with the greatest honor that I list some of the alumni whom UNCF has trained to become some of our esteemed leaders:

Dr. Martin Luther King, Jr.;

The Honorable L. Douglas Wilder, the first African American Governor to be elected;

Dr. David Satcher, former U.S. Surgeon General and former director of the Centers for Disease Control and Prevention;

The Honorable Alexis Herman, former U.S. Secretary of Labor, along with some of our distinguished Members of this House: the distinguished gentlemen from Georgia, Congressman SANFORD BISHOP and Congressman JOHN LEWIS; the distinguished gentleman from Florida, Congressman ALCEE HASTINGS; the distinguished gentleman from New York, Congressman MAJOR OWENS; and the distinguished gentleman from Mississippi, Congressman BENNIE THOMPSON.

Congratulations to the United Negro College Fund on 60 years of excellence in leading the way for providing financial assistance and training to African Americans enabling them to obtain higher education and to find their role on the world stage.

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

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

Mr. Speaker, I thank Chairman BOEHNER, Ranking Member MILLER, the gentlewoman from California and others who have supported H. Res. 792. Mr. Speaker, this resolution honors the United Negro College Fund on its 60th anniversary. I urge my colleagues to vote ''yes'' on this resolution.

Mr. HOLT. Mr. Speaker, I rise today to honor the United Negro College Fund on its 60th anniversary of assistance in higher education. The United Negro College Fund (UNCF) was founded upon a mission to improve the quality of education through the provision of financial aid to deserving students, raising operation funds to assist member institutions, and increasing access to technology at historically black colleges and universities (HBCUs). Throughout the past six decades, the UNCF has raised over $2 billion, allowing the Fund to help over 300,000 students receive a higher education, thus designating the Fund as the largest contributor of funding, aside from the government, to help minorities attend school.

Today, the UNCF extends operational support through technological enhancement and financial assistance to 38 member colleges and universities, allowing these schools to maintain a tuition level 54 percent lower than that of similar schools. The UNCF also provides over 450 scholarships and fellowships that support deserving students through the doctorate level of education. Moreover, of the 65,000 students supported by the UNCF, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000.

The Fund has also recently established Liberty Scholarships, which allow the children of the victims of the attacks of September 11, 2001—regardless of age, race or creed—to attend any of the UNCF's member institutions. Finally, through its efforts and philanthropic activities, the United Negro College Fund has produced innumerable graduates who have

made lasting and significant contributions in fields such as politics, education, law, business, health care, and the arts.

In its 60 years of existence, the United Negro College Fund has undoubtedly changed the lives of hundreds of thousands of students, friends and families, and has thus changed the communities and the country in which we live. Therefore, I would like to honor the United Negro College Fund in recognition of these great achievements and contributions to our society.

Mr. CUMMINGS. Mr. Speaker, I rise today in support of H. Res. 792, honoring the United Negro College Fund, (UNCF), on the occasion of its 60th anniversary and the Fund's unflagging dedication to enhancing top quality college opportunities to millions of students.

Mr. Speaker, we know ''the mind is a terrible thing to waste.'' And Mr. Speaker, we know that education is an unequaled blessing. Before Emancipation, slaves risked corporal punishment as they secretly gathered to read together. As a slave in Baltimore, Frederick Douglass tricked his white playmates into teaching him the alphabet, trading morsels of food for morsels of schooling. Throughout American history, African Americans possessed an unquenchable thirst to learn, finding innovative ways to educate each other.

Dr. Frederick Patterson was a key contributor to that history. One hundred and fifty years after Douglass's death, Dr. Patterson founded the UNCF in an effort to support Historically Black Colleges and Universities and make higher education more accessible to African Americans. In the last 60 years, through grants and scholarships, the UNCF has raised over $2 billion in aid and has helped over 300,000 students attain a college education. Sixty percent of the students UNCF supports are the first in their families to go to college. Many of these students come from families who make less than $25,000 a year.

The UNCF also extends its aid to students beyond the confines of college campus, providing internships at hundreds of Fortune 500 companies and supporting students in their doctoral and post-graduate study. Additionally, UNCF provides millions of dollars in technical and structural support to Historically Black Colleges and Universities by providing computers and training faculty.

I am grateful to the UNCF for its contributions to the education of many of my esteemed colleagues in Congress, including, to mention a few, Congressmen HASTINGS, LEWIS, OWENS, THOMPSON and BISHOP of GA. I know these men personally. I know how their education has contributed to their quest for justice and their tireless work for a better America. I have seen the fruits of their education as they harness their inquisitiveness and leadership to the most difficult challenges of governance.

Mr. Speaker, there are countless others I do not know personally who have received the immeasurable gift of education because of the UNCF. Let me share a few stories with you from the UNCF's 2003 Annual Report. When she was in high school, Gabrielle Brown maintained a part time job mowing lawns in public parks to help her family. The UNCF made Ms. Brown's dream of college a reality. At Johnson C. Smith University, Ms. Smith was on the honor roll and served as a Big Sister. She said, ''the people and companies who give to the UNCF may not realize that their contribution is more than just money, it's hope for the future.''

Another UNCF recipient, Theodore Wesby, spent much of his childhood homeless, sleeping in shelters and bus stations. When he could not afford to live in the dorms at Edward Waters College, the UNFC awarded him a scholarship to cover his expenses. The formerly homeless young man plans to pursue a career in real estate, helping others locate their homes, just like the UNCF helped him locate his. It is in the name, honor, and gratitude of these inspiring students that I express my appreciation to the UNCF for its contributions

W.E.B. DuBois, a graduate of the historically black Fisk University and Harvard University, wrote in The Souls of Black Folk:

''I sit with Shakespeare, and he winces not. Across the color line I move arm and arm with Balzac and Dumas, where smiling men and welcoming women glide in gilded halls. From out of the caves of evening that swing between the strong-limbed Earth and the tracery of stars, I summon Aristotle and Aurelius and what soul I will, and they come all graciously with no scorn nor condescension. So, wed with Truth, I dwell above the veil.''

Mr. Speaker, because of the United Negro College Fund, so many more of us have been able to sit above the veil of ignorance with Shakespeare and Balzac, with Einstein and Pythagoras, with Martin and Mandela. I thank the UNCF for the tremendously important work it does, and I urge my colleagues to accept this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to honor the United Negro College Fund for providing assistance to allow minority students the opportunity of achieving their dream of a college education for 60 years. The Fund is the nation's largest, oldest, most successful and most comprehensive minority higher education assistance organization. Over those 60 years, the United Negro College Fund has raised more than $2 billion to help a total of more than 300,000 students attend college and has distributed more funds to help minorities attend school than any entity outside of the government. UNCF administers over 450 scholarships and fellowships that support students at the undergraduate, graduate and doctoral level. Of those students UNCF helps, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000—reinforcing the fact that without UNCF, those individuals may not have been able to finance their education.

It was the dream of Dr. Frederick D. Patterson in 1943 to raise money collectively with other black college presidents through an ''appeal to the national conscience.'' His call was heard and answered by the Nation. UNCF does amazing work—but more students would get the opportunity of attending and graduating from college if the maximum amount for Pell grants were increased and students were relying less on student loans.

Mr. Speaker—the United Negro College Fund has proven its slogan to be fact—''a mind is a terrible thing to waste''.

Mr. GREEN of Texas. Mr. Speaker and fellow members. I rise to support this resolution and commemorate the 60th anniversary of the United Negro College Fund.

As the oldest comprehensive minority higher education assistance organization, the United Negro College Fund has enhanced educational opportunities for hundreds of thousands of young men and women.

In today's times tuition increases are the rule, not the exception, many minority students rely on organizations like this to navigate financial aid applications and to get the financial help they need to pay for school.

The students who attend college through this organization often go on to become doctors, lawyers, teachers, and elected officials.

United Negro College Fund students don't just become graduates, they become productive citizens and I congratulate all the students back home in Houston and across America who have been helped by this program.

$2.3 billion has been invested in our future by this organization and I wish the United Negro College Fund continued success.

Mr. SCOTT of Virginia. Mr. Speaker, I rise today in honor of the 60th Anniversary of the United Negro College Fund. The United Negro College Fund is the nation's oldest, most successful and most comprehensive minority higher education assistance organization.

Over the past 60 years, UNCF has raised more than $2 billion to help a total of more than 300,000 students attend college. Today, of the approximately 65,000 students UNCF supports, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000. UNCF doesn't just give students an opportunity to get a college education, but more of an opportunity to make a lasting contribution to our communities and nation by building successful careers.

We all know how important a college education is today. It is virtually impossible to compete in today's global economy without a college degree. Studies have shown that workers with a college degree earn 75 percent more than those with only a high school diploma. While there are many obstacles that deter students from going to college, finances by no means should be the deciding factor.

No one should be denied the opportunity to get an education and increase their earning potential based solely on their inability to pay for a college education. UNCF's founder, Dr. Frederick D. Patterson, president of what is now Tuskegee University, recognized that for many African-American students, lack of finances was the only thing standing in the way of their goal of getting a college education. In 1944, he issued a call to other black college presidents to raise money to help educate these qualified students. Now for the past 60 years UNCF has made sure that minority students at over 1,000 colleges and universities have the financial support they need.

Not only does UNCF support students, but also higher education institutions throughout the country. UNCF provides operating support to 38 member historically black colleges and universities (HBCUs), which help the member schools keep tuition down at a rate 54 percent lower than tuition at other comparable schools. UNCF also administers millions of dollars to help provide computers, technology integration training for faculty members and technological infrastructure support for HBCUs.

The fact that UNCF plays such a significant role in supporting our nation's HBCUs is important. HBCUs graduate far more than their share of African American professionals. While HBCUs represent just 3 percent of the nation's institutions of higher learning, they graduate nearly one-quarter of African Americans who earn undergraduate degrees. Nine of the top ten colleges that graduate the most African Americans who go on to earn Ph.Ds are HBCUs.

Mr. Speaker, I am proud to have two of UNCF's member institutions in my state—Virginia Union University and Saint Paul's College. And two other HBCUs in my district that benefit from UNCF funding and programs—Hampton University and Norfolk State University.

Graduates of UNCF institutions have indeed made lasting contributions in the fields of business, health care, the arts and even politics. In fact, several of my distinguished colleagues are UNCF alumni.

In 1972, UNCF introduced its now famous slogan: "A mind is a terrible thing to waste". And through the diligent efforts of all who work with UNCF, by donating financial resources, time and in the case of many celebrities—their good name, they have made sure that the meaning of that slogan resonates across America. Most importantly, they have made sure that every student who has the desire can attend college. I commend those involved with the United Negro College Fund for their hard work and congratulate them on 60 years of service.

Mr. BURNS. 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 Georgia (Mr. BURNS) that the House suspend the rules and agree to the resolution, H. Res. 792.

The question was taken.

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

Ms. WOOLSEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## NATIONAL ESTUARY PROGRAM REAUTHORIZATION

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4731) to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

The Clerk read as follows:

H.R. 4731

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

**SECTION 1. REAUTHORIZATION OF NATIONAL ESTUARY PROGRAM.**

Section 320(i) of the Federal Water Pollution Control Act (33 U.S.C. 1330(i)) is amended by striking ''2005'' and inserting ''2010''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume. I rise in strong support of H.R. 4731, to reauthorize the National Estuary Program. Estuaries are unique and highly productive waters that are important to the ecological and economic bases of our Nation. Fisheries, wildlife, recreation, and tourism are heavily dependent on healthy estuarine systems. Yet despite their value, most estuaries in the United States are experiencing stress from physical alteration and pollution, often resulting from development and rapid population growth in coastal areas.

In the 1980s, Congress recognized the importance of and the need to protect the natural functions of our Nation's estuaries. As a result, in 1987 Congress first authorized the National Estuary Program. Today this program, the National Estuary Program, is an ongoing nonregulatory program designed to support the collaborative, voluntary efforts of Federal, State, and local stakeholders to restore degraded estuaries. Currently all 29 estuaries in the National Estuary Program have developed and are implementing restoration plans. Under this program, $35 million a year is authorized to allow the EPA to help these State and local restoration efforts. The program's current authorization expires in 2005. Thus, the need for this legislation.

H.R. 4731 reauthorizes the National Estuary Program at the same level of funding for an additional 5 years. The bill contains no Federal mandates and imposes no costs on State or local governments. I certainly want to congratulate the gentleman from Pennsylvania (Mr. GERLACH) and the gentlewoman from California (Mrs. TAUSCHER) on sponsoring this bill and on the great leadership they have provided on this. I urge all my colleagues to support this bill.

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

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

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

Ms. NORTON. Mr. Speaker, I want to thank my good friend from Tennessee (Mr. DUNCAN) for his leadership on this bill and rise in strong support of H.R. 4731, a bill to extend the authorization of the Environmental Protection Agency's National Estuary Program. This popular program provides Federal assistance to local stakeholders to implement locally designed management plans for the protection of the Nation's estuaries.

At the same time, the program serves as a national clearinghouse for successful management approaches, technologies and ideas, providing local communities with concrete examples of what works in addressing the unique needs of estuaries. This program authorizes funding for the development and implementation of comprehensive conservation and management plans for estuaries of national significance.

A comprehensive approach to addressing estuary health is particularly important as the stressors on the health of estuaries continue to expand. EPA's most recent water quality report indicated that 50 percent of estuary waters do not meet their designated uses. Programs such as this, coupled with significant additional resources for wastewater infrastructure, may allow for water quality in estuaries to improve and ecosystems to be restored.

□ 1845

I strongly support authorization for the National Estuary Program. And I urge my colleagues to vote ''aye'' on H.R. 4731.

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

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GERLACH), the author of this legislation.

Mr. GERLACH. Mr. Speaker, I rise in support of H.R. 4731, a bill I introduced to reauthorize the National Estuary Program. I would like to particularly thank the gentleman from Tennessee (Mr. DUNCAN) for his efforts on this bill and for his work as chairman of the Committee on Transportation and Infrastructure's Water Resources and Environment Subcommittee.

H.R. 4731 is a simple reauthorization of a highly respected and successful National Estuary Program. A program whose authorization will expire at the end of fiscal year 2005. Like the previous authorization, the bill will authorize $35 million annually for the program and will extend the authorization through fiscal year 2010.

Estuaries are coastal bays, harbors, sounds and lagoons, places where rivers meet the sea. Estuaries and the lands surrounding them are places of transition from land to sea and from fresh to saltwater. Up to 80 percent of the fish that we catch spend at least part of their lives in estuaries. EPA's National Estuary Program was established by Congress in 1987 to improve the quality of estuaries of national importance. Section 320 directs EPA to develop plans for attaining and maintaining water quality in an estuary. This includes protection of public water supplies and propagation of a balanced indigenous population of shellfish, fish

and wildlife; allows for recreational activities on and in water; and requires control of point and nonpoint sources of pollution to supplement existing controls of pollution.

The National Estuary Program now boasts 28 estuaries in almost every coastal State around the country. Since 1987 the program has restored or protected 700,000 acres of coastal habitat. The EPA works with federal agencies, State and local governments, nonprofit institutions, industry, and citizens to address an estuary's environmental problems. The program is a watershed approach in which all affected interests participate in creating solutions that balance environmental objectives with competing issues.

Estuaries support many commercial and other activities. The shipping industry relies on estuaries and is a large source of employment and an integral part of the national economy. Estuaries also provide great opportunities for tourism and recreation. Finally, coastal populations depend on clean water drawn from an estuary's freshwater tributaries to support public infrastructure such as drinking water and water supplies for industrial facilities, wastewater treatment plants, and irrigation.

Much of my congressional district lies within the Delaware Estuary Study Area, so I am intimately familiar with the importance of protecting this particular estuary. The Delaware Estuary has sustained a human population for thousands of years, but by the end of the 19th Century, increased population and industrialization had transformed much of the upper Estuary watershed. Fisheries were in decline due to pollution, and drinking water supplies were contaminated by pollution which caused outbreaks of typhoid and other diseases in urban areas. Both the industrialization and pollution of the water led to a dramatic decrease in the recreational use of the Delaware River. And it became less of a regional focal point as fewer people had direct contact with it.

By the mid-20th Century, even more pollution flowed into the Delaware Estuary, and the urban reach of the Delaware was one of the most polluted stretches of river in the world, with essentially zero dissolved oxygen in the water during the warmer months of the year.

Throughout the 1960s and 1970s, increased State, interstate, federal and public interest led to dramatic improvements in the Estuary's water quality. Today, with the assistance of the Estuary Program, the Delaware Estuary is cleaner than at any time in the last century. Over 90 percent of the Estuary meets swimmable and fishable goals of the Clean Water Act. Public access to the Estuary is increased as a result of public parks.

Seeing the rebirth of the Delaware Estuary as a valuable natural resource is certainly encouraging, and I am encouraged not just by the progress made in the Delaware Estuary but in estuaries throughout the country. For this reason, I believe it is vitally important that we act quickly to reauthorize the National Estuary Program and allow this progress to continue.

Mr. Speaker, again, I would like to thank the gentleman from Tennessee (Mr. DUNCAN), the chairman of our subcommittee; and the gentleman from Alaska (Mr. YOUNG), chairman of our committee, for their efforts and their leadership, and I urge all Members to support this important bill.

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

Sometimes some of the best and most important legislation that this Congress does comes to the floor without much fanfare and does not receive a lot of attention because it is noncontroversial. This is such a bill. But I can tell the Members that it is a privilege for me, as chairman of the Water Resources and Environment Subcommittee, to bring such vital legislation to this floor and urge its passage.

I want to thank the gentleman from Pennsylvania (Mr. GERLACH), the sponsor, and I want to thank the gentlewoman from the District of Columbia (Ms. NORTON) for her assistance and cooperation on this, and I especially want to thank the staff that has worked on this very important bill. I urge passage of this bill.

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

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4731.

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

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 4731.

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

There was no objection.

## AUTHORIZING BOARD OF REGENTS OF SMITHSONIAN INSTITUTION TO CARRY OUT CONSTRUCTION AND RELATED ACTIVITIES IN SUPPORT OF VERITAS ON KITT PEAK

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5105) to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

The Clerk read as follows:

H.R. 5105

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

**SECTION 1. AUTHORIZING BOARD OF REGENTS OF SMITHSONIAN INSTITUTION TO CARRY OUT CONSTRUCTION AND RELATED ACTIVITIES IN SUPPORT OF VERITAS ASTROPHYSICAL OBSERVATORY PROJECT.**

The Board of Regents of the Smithsonian Institution is authorized to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

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

There is authorized to be appropriated $1,000,000 for fiscal year 2005 to carry out section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

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

I want to begin this evening by congratulating the gentlewoman from the District of Columbia on the impending return of Major League Baseball to the Washington, D.C., area. I would only ask if she could use her considerable clout to get the new team located in the American League, and I could watch the Cleveland Indians play here in the Nation's Capital.

Mr. Speaker, H.R. 5105, introduced by the gentleman from Ohio (Mr. NEY), my good friend, authorizes site development and construction of support facilities for the VERITAS project at Kitt Peak National Observatory in Arizona.

I want to pause for a minute because this particular piece of legislation has been sort of a tug of war with our good friends in the Parliamentarian's Office and our good friends in the Committee on House Administration, together with the Committee on Transportation and Infrastructure. And I want to commend the gentleman from Ohio (Mr. NEY), chairman of the Committee on House Administration, for working with us. Those of us who love and enjoy the jurisdiction of the Committee on Transportation and Infrastructure believe that this is a piece of legislation and this is a project that belongs solely within our jurisdiction. We have an artistic difference with some of our friends, and we have worked through that. So, again, I want to thank the parliamentarians and the gentleman from Ohio (Mr. NEY) for getting us to this point this evening.

This project, carried out by the Smithsonian Institution in conjunction with nearly a dozen universities from the United States, U.K., Canada, and Ireland, the new telescopic array will

be able to see gamma rays, which are not visible from traditional earth-based telescopes.

The ability to view gamma-ray radiation will allow scientists to learn new things about the universe including shedding light on previously unseen parts of the universe. Gamma rays are only produced with high-energy galactic events such as exploding stars, pulsars, quasars and black holes. The new telescopic array will be able to view these gamma rays by observing the secondary radiation created when the gamma rays hit the earth's atmosphere.

The VERITAS telescope will increase the viewable power by a factor of ten, making it one of the most powerful gamma-ray telescopes on the planet. This is an important scientific project, and I encourage my colleagues to join me in supporting this legislation.

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

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

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

Ms. NORTON. Mr. Speaker, I thank the gentleman from Ohio for his graciousness and good wishes. And he knows I would do almost anything for him, but as he knows, baseball has been well beyond my jurisdiction for 33 years. We think we have rectified that with today's announcement. I may have a little more to say about it than I have had since I was a child and the Senators were here. I want him to know that some wise guy called in, when we said, what should we name the Senators? And they said, noting my status on this floor, why do we not call them the Delegates?

Mr. Speaker, H.R. 5105 authorizes the Board of Regents at the Smithsonian Institution to construct an astrophysical observatory located at Kitt Peak, Arizona, and to carry out related activities in support of the project. The bill was introduced by the gentleman from Ohio (Mr. NEY) and referred to the Committee on Transportation and Infrastructure.

This construction project will support the work of the Very Energetic Radiation Imaging Telescope Array System, or VERITAS, the project that deals with radiation imaging. The bill authorizes $1 million for the construction and related activities. The construction will involve an inexpensive metal building which will be approximately 4,500 square feet to include a repair area, meeting rooms, general storage and kitchen. The building will be fire-resistant.

The project is being conducted in partnership with the National Science Foundation and the Department of Energy. It is a very worthwhile project, and I urge passage of the bill.

Mr. LARSON of Connecticut. Mr. Speaker, as ranking minority member of the House Administration Committee, which has primary jurisdiction over the Smithsonian Institution, I urge passage of H.R. 5105, a bill to authorize $1 million for the Smithsonian for site development and construction in support of the VERITAS project, an international astrophysical research consortium in which the Smithsonian Astrophysical Observatory SAO plays a principal role.

VERITAS the Very Energetic Radiation Imaging Telescope Array System will be located on Kitt Peak near Tucson, Arizona.

The control building will house computers, electronics and other support required by astronomers to run the telescopes and cameras conducting the VERITAS observations and research, as well as a kitchen, storage space and meeting space for working astronomers. VERITAS is expected to come online in October 2006.

The funds authorized by this bill were contained in the President's budget request and are included in the FY 2005 Interior Department Appropriations bill, which funds the Smithsonian. A nearly identical bill, S. 2362, passed the Senate on June 14 by voice vote and was referred to our committee.

VERITAS is part of the continuing revolution in the science of astronomy. New discoveries, techniques and devices have dramatically reshaped our view of the universe, as well as the mechanics of studying it. Different types of phenomenon, and radiation from different portions of the spectrum are studied in unique ways, and astronomy has become increasingly specialized to facilitate such research.

VERITAS is intended to study gamma radiation from some of the most exotic, high energy sources in space, such as supernovas, black holes, quasars and pulsars. Gamma radiation is very difficult to detect from the Earth's surface and VERITAS will employ new scientific techniques to do so.

VERITAS is a collaboration of seven institutions in the U.S., including the Smithsonian Astrophysical Observatory, along with three institutions in Canada, the U.K. and Ireland, to build an array of four 40-foot diameter reflector which will give stereoscopic images of gamma rays.

It represents the next generation of telescopes studying gamma radiation, which the Smithsonian has done since 1968 at the Whipple Observatory. The Department of Energy and the National Science Foundation each will provide 40 percent of the costs of equipment and construction, with the Smithsonian and overseas collaborators supplying the rest. The total cost of VERITAS would be about $17 million, and this authorization bill is necessary to allow the Smithsonian to use $1 million in Federal funds to complete its financial contribution to the project.

The Smithsonian Astrophysical Observatory SAO, a bureau of the Smithsonian, is the world's premier facility in the exploration of astrophysical phenomena from Earth to the edge of the known universe, employing more than 300 scientists. It was funded in Washington, D.C. in 1890 initially to focus on studying the Sun. In 1955 it relocated to Cambridge, Massachusetts to join with the Harvard College Observatory and in 1973 an umbrella entity, the Harvard-Smithsonian Center for Astrophysics, was created.

Mr. Speaker, we can look forward to the significant advances which VERITAS will bring to our understanding of some of the most fascinating objects, and most powerful and mysterious forces, in the universe, and I urge approval of the bill.

Mr. NEY. Mr. Speaker, I rise today in support of H.R. 5105, which authorizes the Smithsonian Institution to construct an instrumentation support facility on Kitt Peak, Arizona.

The Smithsonian Institution requires this base facility to support the ongoing collaborative VERITAS project.

VERITAS, which is a high energy telescope research project, was listed as a priority for international ground and space research initiatives, in a report of the Astronomy and Astrophysics Survey Committee of the National Research Council.

The goals of the VERITAS project are to further develop the field of high-energy gamma-ray astronomy. This project expands on work done through the Smithsonian's Astrophysical Observatory or SAO, and will help to maintain the Smithsonian's goal of excellence in scientific research.

With the help of VERITAS, SAO astronomers will be able to produce the next levels of knowledge about gamma-ray astronomy, develop further scientific instrumentation to detect this highest energy form of light, and remain as one of the world's leading authorities on gamma-ray bursts.

The VERITAS project enables astronomers to explore solar flares, supernovae, neutron stars, black holes and active galaxies. By exploring gamma rays, the SAO astronomers will gain further knowledge into the origins of the universe, the rate at which it is expanding, and its current size.

This bill authorizes a total of $1 million for fiscal year 2005, for constructing a support facility and the necessary utilities and equipment housings.

The balance of the $17 million dollars will come from other non-Smithsonian sources, such as the U.S. Department of Energy, the National Science Foundation, and the international consortium, so the Smithsonian will get enormous value for its investment.

The Smithsonian has been a leader in scientific research, and this project will go a long way in furthering this worthwhile endeavor. I urge my colleagues to support H.R. 5105.

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

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 5105.

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

A motion to reconsider was laid on the table.

## F.H. NEWELL BUILDING

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3124) to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the ''F.H. Newell Building''.

The Clerk read as follows:

H.R. 3124

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

**SECTION 1. DESIGNATION.**

The facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, shall be known and designated as the ''F.H. Newell Building''.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the ''F.H. Newell Building''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

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

H.R. 3124, introduced by the gentleman from Idaho (Mr. OTTER), designates the facility of the U.S. Geological Survey and the U.S. Bureau of Reclamation located in Boise, Idaho, as the ''F.H. Newell Building.''

Fredrick Haynes Newell was born in Bradford, Pennsylvania, on March 5, 1862. He attended MIT where he studied mining engineering. Upon his graduation he went to work for the U.S. Geological Service, when he was tapped to head an irrigation survey team mapping sites of potential dams in the American West.

While doing his work, F.H. Newell developed several stream-gauging techniques and invented the instruments that are still in use today by the Geological Survey. Upon passage of the Reclamation Act of 1902, F.H. Newell was appointed as the first chief engineer and later the second director of what has now become the Bureau of Reclamation.

In his autobiography, President Teddy Roosevelt praised Newell for his ''constructive imagination,'' leadership, and high character. After leaving federal service, F.H. Newell became an educator, being named head of the Department of Civil Engineering at the University of Illinois. He was also the author or co-author of seven books and a number of articles on engineering techniques.

This is a fitting tribute to a creative and dedicated public servant. I urge my colleagues to join me in supporting this legislation.

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

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

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

Ms. NORTON. Mr. Speaker, H.R. 3124 is a bill to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the ''F.H. Newell Building.''

F.H. Newell was the first hydrographic engineer for the U.S. Geological Survey and a person who contributed significantly to the water development in Idaho and throughout the West. He appreciated the need for saving the forest and the soil as well as the need for irrigation.

Mr. Newell was single-mindedly devoted to the task of reclamation and protection of natural resources. He is described as having a constructive imagination, a forceful drive and dedication. President Roosevelt viewed him as the model public servant. It is very appropriate to acknowledge the significant career contributions of F.H. Newell with this designation. I urge passage of the bill.

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

□ 1900

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3124.

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

A motion to reconsider was laid on the table.

## GARZA-VELA UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1402) to designate a United States courthouse in Brownsville, Texas, as the ''Garza-Vela United States Courthouse,'' as amended.

The Clerk read as follows:

H.R. 1402

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

**SECTION 1. DESIGNATION.**

The United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, shall be known and designated as the ''Reynaldo G. Garza and Filemon B. Vela United States Courthouse''.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Reynaldo G. Garza and Filemon B. Vela United States Courthouse''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

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

Mr. Speaker, H.R. 1402 introduced by the gentleman from Texas (Mr. ORTIZ) designates the United States courthouse located in Brownsville, Texas, as the Reynaldo G. Garza and Filemon B. Vela United States Courthouse.

This legislation honors two men who were pioneers, as well as judicial giants, yet at the same time two men who made time for family and community.

Reynaldo Guerra Garza was born in Brownsville, Texas in 1915 and spent his lifetime working in and serving that community as an attorney in the Army Air Corps and as a Federal judge committed to protecting the rights of legal immigrants.

President Kennedy appointed Judge Garza to the U.S. District Court for the Southern District of Texas in 1961. At that time, Judge Garza became the first Mexican American on any U.S. District Court. In 1979, when President Jimmy Carter appointed Judge Garza to the Fifth Circuit Court of Appeals, he became the first Mexican American to gain that honor as well.

Filemon Bartolome Vela was born in Arlington, Texas in 1936 and attended the Harlingen public schools. Like Judge Garza, he dedicated his life to South Texas, first as a State judge, and then as a Federal judge, taking over the seat vacated by Judge Garza upon his appointment to the circuit court of appeals.

Judge Vela is perhaps best known in the community for his work with the schools, speaking to children on career days and encouraging youth to get an education by supporting literacy programs.

Each of these gentleman succumbed to their illnesses in the past year. This naming is a fitting tribute to their dedicated service. I urge my colleagues to support this legislation.

I also want to recognize my colleague, the gentleman from Texas (Mr. ORTIZ), for his dedication in bringing this legislation to the floor. I thank him for ensuring that these men are recognized for their service.

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

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

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

Ms. NORTON. Mr. Speaker, I join with Mr. ORTIZ of Brownsville, Texas, in supporting H.R. 1402, a bill to name the courthouse in Brownsville, Texas as the Reynaldo G. Garza—Filemon B. Vela United States Courthouse.

Mr. Speaker, this bill honors the life and works of two extraordinary Mexican-Americans. Judge Reynaldo Garza was born in Brownsville in 1915. He graduated from local elementary schools as well as Brownsville High School. After graduating from Brownsville Junior College he attended the University of Texas where he received a combined degree of Bachelor of Arts and Bachelor of Law.

Judge Garza served his country during World War II in the Air Force. After the war he returned to Brownsville to practice law.

In 1961 President Kennedy appointed Judge Garza to the District Court for the Southern

District of Texas. In 1979 President Carter appointed him to the United States Court of Appeals for the Fifth Circuit.

In addition to his judicial duties Judge Garza has long been interested in education issues. He served former Governors John Connally and Governor Mark White on commissions to improve the quality of education in Texas. Judge Garza recognized the importance of education in judicial proceedings and his concern for the uneducated man at the mercy of unscrupulous people.

Judge Garza was very active in his church, and has served the Knights of Columbus in the Brownsville area for many years. Pope Pious XII twice decorated Judge Garza for his work in behalf of Catholic Charities. In 1989 Judge Garza was honored by the University of Texas with the Distinguished Alumnus award.

His record of public service includes work with the Rotary Club, the Latin-American Relation Committee of Brownsville, trustee at his law school, advisory council for the Boy Scouts, and he was elected as City Commissioner of the City of Brownsville.

It is fitting and proper to honor Judge Garza's outstanding, rich life, his commitment to excellence, and his numerous public contributions.

Judge Filemon Vela was also a native Texas and a veteran of the United States Army. He attended Texas Southmost College, and the University of Texas. His law degree is from St. Mary's School of Law in San Antonio.

Judge Vela served as a Commissioner of the City of Brownsville. He was an active member of the Judges Advisory Committee to the U.S. Sentencing Commission. Judge Vela is a former law instructor, and an attorney for the Cameron County Child Welfare Department.

His civil activities include being the charter President for the Esperanza Home for Boys, and co-sponsor of the Spanish Radio Program "Enrich your Life, Complete your Studies," Judge Vela's other civic activities include membership on the Independent School District Task Force, and membership in the General Assembly of the Texas Catholic Conference. He is also an active member of the Lions Club.

Judge Vela was nominated by President Carter for the Federal bench and was confirmed by the United States Senate in 1980.

Judge Vela's career was filled with successes, commitment to his family, devotion to his religion and his church, love for his work and respect for his colleagues. It is most fitting to honor Judge Vela with this designation.

I join Congressman ORTIZ in supporting H.R. 1402.

Mr. Speaker, in recognition of the hard work of the author of this bill who brought this bill forward, I yield such time as he may consume to my good friend the gentleman from Texas (Mr. ORTIZ).

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

Mr. ORTIZ. Mr. Speaker, I thank very much the gentleman from Ohio (Mr. LATOURETTE) for bringing this bill to the floor, as well as the gentlewoman from the District of Columbia (Ms. NORTON), the gentleman from Tennessee (Chairman DUNCAN), the gentleman from Alaska (Chairman YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and members of the staff for quickly bringing this bill to the floor.

I also want to thank the gentleman from Texas (Mr. HINOJOSA) and the gentleman from Texas (Mr. GONZALEZ) for also speaking on this matter.

Mr. Speaker, today we are passing long overdue legislation that names the United States Federal Courthouse in Brownsville, Texas, the Reynaldo G. Garza and Filemon B. Vela United States Courthouse. Earlier this year, Judge Vela sadly passed away, and 2 weeks ago Judge Garza also passed away, leaving behind two distinct and honorable legacies in South Texas.

These two men were judicial stalwarts. Individually, they were trailblazers, pioneers, and an inspiration for many Hispanics, particularly Mexican Americans from the Rio Grande Valley. Together they are an enormous wealth of riches we want to forever remember.

Mr. Speaker, I thank the House for their action on this bill, and ask that we pass it unanimously

Mr. Speaker, I provide the following for the RECORD:

QUORUM REPORT

BROWNSVILLE NATIVE DESCRIBED AS TRAILBLAZER, JUDICIAL LEGEND

Tributes have been pouring in for Judge Reynaldo Garza, the nation's first Hispanic federal judge. The Brownsville native and son of Mexican immigrants died Tuesday at the age of 89 after battling pneumonia.

President Kennedy appointed Garza to the federal judgeship in 1961. President Carter appointed him to the 5th U.S. Circuit Court of Appeals. In between, he turned down an opportunity to be Attorney General under President Johnson because he liked being a federal judge and did not want to be away from his family.

"Judge Garza was a trailblazer, a pioneer who set the stage for all those that followed," said state Sen. Eddie Lucio (D–Brownsville). "He was a man of great stature. He lived life as he preached it, as a devout Christian. He had a tremendous work ethic and was an inspirational speaker. He gave you a big grin that made you feel good. You just knew he cared."

Lucio said he knew Garza all his life. Garza officiated when Lucio took his oath of office as Cameron County Treasurer in 1971.

"I remember seeing him around the county courthouse when I was a young boy and he was still practicing law," Lucio recalled. "I am proud to say that he and my father were the two most influential men in my life. He preached Americanism and patriotism."

U.S. Rep. Solomon Ortiz (D–Corpus Christi) said South Texas has lost a friend, pioneer, hero and judicial legend with his passing.

"Judge Garza became a legend in the South Texas area by virtue of his commitment to education, community and family . . . and in the evenhandedness of how he dispensed justice," Ortiz said.

"Judge Garza's wit, workhorse energy, pointed candor, and razor sharp focus on questions of law won him an amazing number of fans in Washington and elsewhere in the legal/judicial establishment."

Ortiz said Garza's granddaughter had worked as an intern in his Capitol Hill office this summer. Ortiz said he was working in Congress to name the new federal courthouse in Brownsville partially in his honor.

"I have talked to members on the Committee where the bill is being held, appealing for them to move quickly to pass this bill. Its rapid passage would be a great tribute to Judge Garza's life work," Ortiz said.

Garza's funeral is scheduled for Saturday at the Fort Brown Memorial Center in Brownsville.

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[From the Brownsville Herald, Sept. 15, 2004]

NATION'S FIRST MEXICAN-AMERICAN DISTRICT JUDGE DIES OF PNEUMONIA

(By Laura B. Martinez)

U.S. Circuit Judge Reynaldo G. Garza, the nation's first Mexican-American district judge, died Tuesday at a Brownsville hospital. He was 89.

Garza died at 9:40 a.m. at Valley Baptist Medical Center-Brownsville, formerly Brownsville Medical Center, surrounded by his family, according to his son Reynaldo G. Garza Jr. The judge died of pneumonia. He had been battling the illness since July 11.

"He had gone home for 10 days and had a relapse," Garza Jr. said.

"Pneumonia is a tough thing for an 89-year-old to beat and his body finally gave up."

As recently as Sunday, Judge Garza was still mentally alert, his son said.

Up until last month, Judge Garza's law clerks were still bringing work to his home and the hospital.

"He would read over the papers and sign whatever was necessary," Garza Jr. said, "He was sharp enough to still be working.

"He was physically in bad shape, but mentally he was still in very good shape."

Judge Garza is survived by his wife, Bertha Champion Garza; five children, Reynaldo G. Garza Jr., David C. Garza, Ygnacio P. Garza, Bertha Garza Elizondo and Monica Garza; 12 grandchildren and three great grandchildren.

He was nominated to the bench by President John F. Kennedy in March of 1961 and confirmed by the Senate in April 1961 for the Southern District of Texas. He was nominated to the U.S. Court of Appeals for the Fifth Circuit by President Carter in April 1979 and confirmed by the Senate in July 1979. He assumed senior status in July 1982.

In 1977, the Brownsville school district honored Garza by naming an elementary school after him. There's also a school in McAllen named for him as well.

In 2003, U.S. Rep. Solomon Ortiz, D-Corpus Christi, renewed his efforts to get the new federal courthouse partially named after Garza and the late senior U.S. District Judge Filemon B. Vela.

Vela died in April of stomach cancer. He was 68.

The bill is pending.

Former Brownsville Mayor Blanca S. Vela said Tuesday that Garza had been something of a father figure to her late husband.

When her husband Judge Vela died in April, Garza took the loss very hard. The two had been close friends, she said. "They were close with each other for years. He was in tears," Blanca Vela said. "I went to his house to console him.

"The judge was an inspiration to my husband. My husband though very much of him as a father," after his own father died more than 10 years ago, she said.

The two families had been friends for more than 30 years. The two met when Judge Vela was a practicing attorney and Judge Garza was on the bench.

"It's a loss in the field of law, for justice, fairness and equality and all those virtues that he had and was so supportive of," Blanca Vela said. "I'm saddened to hear about his death."

Garza touched many in the legal community, both professionally and personally.

Undeterred by his illness, he officiated the swearing in of U.S. District Judge Ricardo H. Hinojosa in McAllen as chairman of the federal sentencing commission. The ceremony was performed in Garza's hospital room in Brownsville on Aug. 3, Hinojosa said.

Hinojosa met Garza when he was on the bench at the federal courthouse in Brownsville. The two courtrooms were located on the same floor.

''Judge Garza was a great mentor and immediately made me feel at home . . . he was always ready to provide advice in counsel,'' Hinojosa said.

Hinojosa said he has admired Garza since he was a boy. He remembers attending naturalization ceremonies in Starr County, which Garza presided over.

''I remember sitting there and not realizing that someday I would be working on the same floor as he did,'' Hinjosa said. ''He's an example of anything that is possible in this great country.

''The rest of us have come along after him because he opened doors for us. He opened doors that remain open for the rest of us.''

Students and staff at Reynaldo G. Garza Elementary School were informed of the judge's death Tuesday afternoon.

''Judge Reynaldo G. Garza has been an incredibly positive role model for the students at Garza Elementary since the school's inception in 1977,'' Principal Cesar Martinez said.

''The entire administration, staff, student body and community have his family in their thoughts.''

Judge Garza and his family were actively involved at the school, showing up on the campus to read to the students during National Reading month, and helping out with fund-raisers, Martinez said.

The school will have a remembrance ceremony for the judge on Sept. 24. Details are pending.

School officials had planned to have a TAKS or Texas Assessment of Knowledge and Skills testing rally on that date, but opted to change the rally to a service instead.

News of Garza's death brought Brownsville resident Joe C. Wolfe to tears Tuesday. Wolfe said Garza was a guest speaker at a Veterans for Foreign Wars event in 1990. Wolfe was the commander post captain in Brownsville at that time.

After watching a television news broadcast, Wolfe, 78, went outside and lowered the U.S. Flag posted in front of his home to half-staff.

''He's my hero,'' an emotional Wolfe said. ''He'll go down in history. I'm proud, because of him.''

Funeral services are under the direction of Darling Mouser Funeral Home. Preliminary plans include family visitations at 5 p.m. Friday at St. Mary's Catholic Church, 1914 Barnard Road, followed by a rosary at 7 p.m.

A funeral Mass is tentatively set for 10 a.m. Saturday at Jacob Brown Auditorium with burial to follow at Buena Vista Burial Park.

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[From the Rio Grande Valley Bureau]

(By Mariano Castillo)

McALLEN.—Reynaldo Garza, a senior judge on the U.S. Fifth Circuit Court of Appeals and the first Mexican American appointed to the federal bench, died Tuesday in a Brownsville hospital at 89.

A native of Brownsville, Garza was described as an inspiration for generations of Hispanics, particularly Mexican Americans from the Rio Grande Valley.

He'd been battling pneumonia for more than a month.

''He was truly one of the greats of the area,'' said U.S. District Judge Ricardo Hinojosa of McAllen, a longtime friend. ''We followed his path after he was the first to walk through that door.''

Hinojosa recalled the awe he felt when as a boy he watched Garza officiate at a naturalization ceremony. More than 20 years later, when he and Garza presided over similar ceremonies together, ''it always took me back,'' he said.

But the judge said Garza's influence transcended race and region, adding: ''He was a role model for all federal judges in this country.''

President John F. Kennedy appointed Garza to the federal bench in 1961. In 1979, President Carter named him to the New Orleans-based appeals court, which has jurisdiction over federal cases in Texas, Louisiana and Mississippi.

People from all backgrounds respected Garza for being accessible yet sophisticated, U.S. District Judge George Kazan of Laredo said.

''He's one of those guys that you talk about that can be just at ease with a president as with an undocumented alien because he just had a good touch with people,'' Kazen said.

U.S. Rep. Solomon Ortiz, D-Corpus Christi, said he'd try once again to pass a bill to rename the federal courthouse in Brownsville in Garza's honor.

Garza recalled turning down an offer by Carter to be U.S. attorney general so he could remain in the Valley.

Garza's parents were from Matamoros, Mexico.

The sixth of eight children, Garza was born July 7, 1915, and attended junior college in Brownsville, graduating in 1935. He was a laborer for the Works Progress Administration to pay for his studies at the University of Texas at Austin, where he obtained a law degree. He started a law practice in Brownsville.

He ran for the school board and city commission. During World War II he served in the U.S. Army Air Corps. He was an established lawyer by the time Vice President Lyndon B. Johnson recommended him to Kennedy for the federal judgeship.

''I always said I hope I got the appointment because I was qualified, not because I'm Mexican American, but I knew I had to do a good job or else my actions would reflect not only on my ability, but also that of other Mexican Americans,'' Garza said in ''All Rise,'' a biography written by Brownsville native Louise Ann Fisch.

Fisch, who now lives in Maryland, said Garza ''never lost his small town origins and he could bridge the gap between the Anglo and Mexican cultures.''

The cases he presided over as a federal judge in the 1960s and 1970s included several that contributed to the civil rights changes of the era, such as challenges to a racially segregated union and the suspension of a public school student for passing out anti-war leaflets during the Vietnam War.

Garza worked during his retirement years, and from his hospital bed, he administered the oath of office for Hinojosa to chair the U.S. Sentencing Commission as seven friends and witnesses crowded into the room Aug. 3.

''It is unfortunate in some respects that so few people, unless they were close to him, have a sense of what a pioneer and what a leader he was—not only in the legal field but in the community in terms of the charitable,'' said U.S. Ambassador to Mexico Tony Garza, who is not related to the judge. ''He was there doing things when other folks were not even imagining them. He has, and it should be recognized, a huge legacy.''

Visitation will be Friday at 5 p.m. at St. Mary's Catholic Church in Brownsville, with a rosary at 7 p.m.

The funeral is scheduled for Saturday at 10 a.m. at the Fort Brown Memorial Center in Brownsville. He'll be buried in Buena Vista Cemetery.

Garza is survived by his wife, Bertha; five children; 12 grandchildren; and three great-grandchildren.

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[From the Brownsville Herald, Sept. 19, 2004]

JUDICIAL TRAILBLAZER: JUDGE GARZA LAID TO REST

(By Ildefonso Ortiz)

Hundreds gathered Saturday to bid farewell to a judicial pioneer.

U.S. Circuit Court Judge Reynaldo Garza, the nation's first Mexican-American district judge, was laid to rest Saturday as family, friends and colleagues wiped tears from their faces.

But even in their sorrow, mourners could not help but smile as they watched a video of Garza recalling some of his memorable moments from a legendary career on the bench.

''I had a young man from a well-known family in Donna and I sentenced him to five years. I was going to give him probate, but the poor lad fainted before I had the chance,'' Garza said, chuckling. ''After they revived him I suspended the sentence and gave him probation.''

Garza's chuckle lightened the mood—something he did countless times in life, according to his son Ignacio. Even in Garza's last days, he maintained his sense of humor.

''He began to plan,'' the son said. ''He said, 'don't bury me for three or four days. I want to give time for my law clerks to be there.' If he ever figures out how to use a phone in heaven he will call those who didn't come.''

Judging by the overflowing crowd at the Mass and burial, Garza won't have many phone calls to make.

Senators, federal judges and other well-wishers crammed inside Jacob Brown Auditorium for a morning Mass and paid their final respects to Garza at Buena Vista Cemetery.

President Bush also offered his condolences in a video message played after the Mass.

''Those of us who are from Texas are proud to say we are both Texans,'' Bush said. ''We will honor his memory today.''

Judge Garza died of pneumonia on Tuesday after battling the illness since July 11. He was 89.

Garza was appointed to the bench in March 1961 by President John F. Kennedy, who nominated him for the Southern District of Texas. Garza was nominated to the U.S. Court of Appeal for the Fifth Circuit by President Carter in March 1979 and the Senate confirmed the nomination in July. Three years later he assumed senior status.

During Saturday's Mass, Monsignor Gustavo Barrera took to the podium to talk about Garza's unbreakable faith, as Bishop Raymundo Peña sprinkled ritual incense throughout the altar.

''When he was able, he was at daily Mass,'' Barrera said as he looked at the sea of people holding back tears. ''He was with his family, at the bench or at church.''

Barrera said the judge had a gift to help those who needed it most.

''He had the light of Christ in him,'' he said, ''and he could see the light of Christ in other people.''

After Mass, dozens of vehicles lined the streets of Brownsville as they followed Garza to his final resting place at Buena Vista Cemetery. More than 40 law enforcement officers escorted the procession to the cemetery as a Border Patrol helicopter hovered above.

The mourners were greeted by dozens of flower arrangements, creating a 5-foot wall that served as a background for the burial ceremony.

There, they bid farewell to the judge.

''Judge Garza, he was a wonderful mentor to me and to many of my colleagues,'' said U.S. Circuit Court Judge Hilda Tagle. ''He was devoted to his family and he was loved by all.''

Juliet V. Garcia, president of the University of Texas at Brownsville and Texas Southmost College, said Garza was a good friend.

''He was a simple, man, he was a friend to all and we will miss him,'' she said.

Even those who had not met the judge attended the burial to pay respects.

''He was a good person, he did a lot of good for people,'' said Cervando Cardenas. ''I lived a few blocks from the school with his name (Garza Elementary), my kids went there and I had to come say goodbye.''

[From the Brownsville Herald, Apr. 14, 2004]

JUDGE FILEMON VELA LOSES BATTLE WITH STOMACH CANCER

Senior U.S. District Judge Filemon B. Vela, one of Brownsville's most notable figures, died Tuesday at a Harlingen hospital. He was 68.

Vela died at 12:33 p.m. in the emergency room at Valley Baptist Medical Center, said hospital spokesman Mike Swartz. The judge had been on an airplane Tuesday en route from Houston, where he had been undergoing treatment for stomach cancer at M.D. Anderson Cancer Center, said his son Filemon Vela Jr.

''My father fought a very courageous battle with cancer, and this morning, he was returning for further treatment, and after landing in this place that he loved so dearly, he passed away in peace,'' he said.

''On behalf of our father and our family, I would like to thank all of our friends for their phone calls, their visits, their thoughts and prayers.''

Judge Vela was married to former Brownsville Mayor Blanca Sanchez Vela. They had three children.

Viewings will be held from 7 to 9 a.m. Thursday and Friday at the Brownsville Events Center on Paredes Line Road. A prayer service will follow Thursday's viewing; funeral services will begin at 9 a.m. Friday under the direction of Darling Mouser Funeral Home in Brownsville.

Vela, a Harlingen native, served as a federal judge from 1980 to 2000 when he retired and received senior status.

As a senior judge, Vela traveled through the Southern District of Texas Region relieving the load of district judges hearing cases in Brownsville, McAllen and Laredo.

''Judge Vela was a great man. That's something you hear about a lot of people, but it's really true with him,'' said U.S. Magistrate John William Black of Brownsville, who first met Vela in 1965 when both were practicing attorneys.

''He had a lot of people appear before him but he never let himself be jaded by the fact he had handled so many cases,'' Black said.

''He looked at people as people, not as numbers or statistics.

''He was truly a great man and will be missed.''

Vela graduated from St. Mary's School of Law in San Antonio in 1962. He practiced law in Harlingen and Brownsville from 1962 to 1974.

He served on the Brownsville City Commission from 1971 to 1973. He was a state district judge in Cameron County from 1975 to 1980.

In 1980, he was a candidate for the federal bench. U.S. Sen. Lloyd Bentsen, D–Texas, and former President Jimmy Carter nominated him. At the same time he was confirmed by the Senate as U.S. district judge for the Southern District of Texas.

In 2000, Vela opted to take senior status instead of retiring at age 65.

News of Vela's death spread quickly through the Southern District of Texas' U.S. District and Bankruptcy Courts.

The region covers the area from Houston to Brownsville.

''It's a very big personal loss, because he was a very good friend and a teacher and aide with regards to my taking on the role as a judge 21 years ago,'' said U.S. District Judge Ricardo Hinojosa of McAllen.

Hinojosa worked with Vela for more than four years in Brownsville federal courts before transferring to the McAllen federal courthouse.

''He would often joke with people that he and I were appointed by presidents from different parties but that when it came to judging we were one, because our constitution and our laws don't have partisan flavor,'' Hinojosa said.

Former President Ronald Reagan appointed Hinojosa.

It was just two months ago Vela was handling cases in federal court, Hinojosa said.

''He was still offering help as he always did.''

Black said Vela was instrumental in getting a new federal courthouse built in Brownsville.

''He was the one that carried all of the water and did all the things that needed to be done to get it to happen,'' Black said. The U.S. Courthouse and Federal Building at Sixth and East Harrison streets was opened in 2001.

In 2003, U.S. Rep. Solomon P. Ortiz, D–Corpus Christi, renewed his efforts to get the new federal courthouse partially named after Vela and U.S. District Judge Reynaldo Garza.

This bill is pending.

About five years ago, the bill passed in the House but stalled in the U.S. Senate.

''South Texas lost a legend today with the passing of Judge Filemon Vela,''Oritz said in a prepared statement. ''He was my friend, he was a hero and he was a judicial giant in the Rio Grande Valley.''

Federal public defender Roland Dahlin of Houston said attorneys in Houston were sadden by the news of the judge's death. Many had worked with him on federal cases.

Beside attending court, Judge Vela routinely visited area schools, encouraging children to continue their education and to stay away from drugs.

He often administered the oath of citizenship to new U.S. citizens at citizenship ceremonies held across the Valley.

''He touched everybody in this city in his own way,'' said Raul Besteiro, Port of Brownsville director and a former colleague of Vela's at The University of Texas at Austin.

''He was always available to do things for people. He had a heart that was bigger than anybody else,'' Besteiro said.

''He did a great job with his family and his kids. And he was very proud that his wife (Blanca S. Vela) was mayor of this community.

''All I can say, he's passed the baton to us, and we have to make sure you put that baton ahead.''

Sen. Kay Bailey Hutchison, R-Texas, described Vela as ''a steadfast advocate for the rule of law.''

''His leadership will be missed along the border and across the state,'' she said.

In lieu of flowers the Vela family asks that donations be made to the Vela Middle School Scholarship Fund 4905 Paredes Line Road, Brownsville, Texas 78520.

[From the Brownsville Herald]

FAMILY, FRIENDS PAY RESPECT TO JUDGE VELA

(By Laura B. Martinez)

Carlos Vela stopped speaking in mid-sentence and listened to a student mariachi group play a tune.

Vela's eyes welled up. ''That was his favorite song,'' he said. The song was ''Laureles,'' a favorite of his brother, the late U.S. District Judge Filemon B. Vela.

Judge Vela died Tuesday, soon after arriving home from Houston where he was treated for stomach cancer. He was 68.

The University of Texas at Brownville and Texas Southmost College Mariachi Escorpion performed the melody Thursday at the Brownsville Events Center, where a viewing was held for Judge Vela's body. A funeral service and burial is set for today.

The music was overwhelming for Carlos Vela, who listened briefly then walked to the main room at the Events Center.

''All the Velas like mariachi music,'' he said before slowly walking away.

Hundreds of mourners filed into the center to pay respect to the judge who has been referred to as a South Texas legend.

Many of those who attended Thursday's service worked at the U.S. District Courthouse in Brownsville, where Vela held court.

''He was a wonderful man,'' said Belia Zepeda, who works for the U.S. Marshals Service in Brownsville. ''He was so respected, and everybody looked up to him.''

While many attending Thursday's prayer service knew him as Judge Vela, to his nieces and nephews he was ''Tio Filo.''

''He was my uncle, my godfather and most importantly, my friend,'' said Manny Vela, one of the judge's numerous nieces and nephews.

Manny Vela said his uncle did not care whether someone was rich or poor, the color of one's skin or if an individual had a title with his or her name.

''He treated people with the respect and dignity that they were due,'' he said.

''I was blessed to be raised among giants. All my life I've been surrounded by family members living larger than life—people who do the right thing for the right reasons.''

Also speaking at Thursday's service was Chief District Judge Hayden W. Head Jr. of Corpus Christi.

Head said he met Judge Vela in 1981 and formed a close friendship with him.

''Judge Vela was a wise judge who knew the law and knew it well,'' Head said. ''But there was more to the senior judge.

''He had that connection with people. . . . He was compassionate when compassion was required and firm when it was needed.''

SOUTH TEXAS LOST A GOOD MAN WITH THE DEATH OF JUDGE FILEMON VELA

U.S. District Judge Filemon Vela died at noon Tuesday as his plane landed at Valley International Airport in Harlingen. Judge Vela was stricken with stomach cancer two months ago and had been in treatment at M.D. Anderson Hospital in Houston since that time.

Judge Vela was a fair but strict judge who enforced this country's laws and sent thousands of criminal defendants to prison during his 29 years on the bench.

He was born in Harlingen in 1935 and lived with his parents and brothers, Moises, Robert and Carlos and his sister, who helped raise him after the death of his mother. His father was a notary public and had his office in the same building where the family ran a small grocery. The Vela family lived in Fair Park on the west side of Harlingen.

Moises and Carlos are also attorneys and Moises is a former Cameron County Judge and Harlingen municipal judge. Moises' son, Manny, is Cameron County Democratic Party Chairman.

Judge Vela was no product of affirmative action. His character was molded by his father who insisted that his children get an education. When St. Anthony Catholic

School opened, in 1948, Filemon and Carlos were among the first students signed up.

Filemon Vela graduated from Harlingen High School in 1954 and became a student at Texas Southmost College, Brownsville, where he was known for his quick wit and love of debate. He served in the U.S. Army from 1957 until 1959. After his army duty he enrolled in St. Mary's Law School, San Antonio, where he graduated in 1962. Although he didn't have the money to pay tuition he earned it by working in the cafeteria.

Upon graduation he practiced law in Harlingen for two years then moved to Brownsville where he practiced for 11 years, entering politics in 1971. Vela was a Brownsville City Commissioner from 1971–73 and was elected state district judge of the 107th court in 1975. In this capacity he presided over cases in Willacy County as well as in Cameron County.

In 1980 he was nominated by President Jimmy Carter to a federal judge seat in Brownsville being vacated by Judge Reynaldo Garza. He was confirmed by the Senate later that year and served until May 1, 2000 when he assumed senior status.

My family has known the Vela family since 1948. Judge Vela's brother, Moises, was my father's attorney and he was my mother's attorney. Judge Vela honored my family by swearing in my son, Dan, after he also graduated from St. Mary's Law School and passed the state bar exam. And while he was a student at St. Mary's, my son clerked for Judge Vela in Brownsville.

Some 50 years ago, my brothers and I camped with Filemon and Carlos Vela at Camp Perry, while in the Boy Scouts.

Recently Judge Vela hosted his 1949 St. Anthony School graduating class and gave his fellow classmates a tour of the new federal courthouse in Brownsville with dinner in Matamoros.

Filemon Vela was a good lawyer, a good judge, a Christian and a longtime friend. Our condolences go to his family, wife, Blanca, a daughter, and his son, Filemon, Jr., an attorney who practices in Corpus Christi.

The Editor

Ms. NORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA)

Mr. HINOJOSA. Mr. Speaker, I rise today in strong support of H.R. 1402, the Garza-Vela United States Courthouse Designation Act offered by my good friend and colleague, the gentleman from Texas (Mr. ORTIZ).

This bill pays tribute to two great men, Federal Judge Reynaldo G. Garza and Federal Judge Filemon B. Vela, who were judicial legends in South Texas.

Judge Garza was the Nation's first Mexican American Federal district judge. Appointed to the Federal bench by President John F. Kennedy in 1961, Judge Reynaldo Garza served this Nation through the turbulent years of the civil rights movement. His decisions contributed to the changes that opened up many opportunities for minorities.

In 1976, President Carter asked him to serve as the Nation's Attorney General, but he declined because he did not want to leave his beloved South Texas and his service on the Federal bench.

He was committed to education, particularly in encouraging literacy, and he was known to all for the even-handed way in which he dispensed justice.

His last official act took place from his hospital bed when he officiated at the swearing-in of his protege, Judge Ricardo H. Hinojosa as the new chairman of the Federal Sentencing Commission. When he passed away a few weeks ago at the age of 89, I was privileged to join the thousands of mourners in paying tribute to this outstanding and extraordinary pioneer.

I offer his wife Bertha and all his children and grandchildren my heartfelt condolences.

Judge Vela was nominated to the Federal bench by President Carter in 1980 and worked tirelessly to design and have built the new courthouse in Brownsville. It is indeed fitting that his name will be on this new Federal Courthouse.

Judge Vela, like his good friend Judge Garza, was known for his impeccable integrity and fairness on the bench. He also was passionate about teaching children about the law and the criminal justice system in order to encourage them to make the right choices in life. He would bring inmates to school to tell children about the mistakes they had made and the consequences they suffered as a result.

Judge Vela was often heard on the radio giving advice and counsel to parents and students on the importance of education. Like Judge Garza, he was also a mentor to many others in his profession.

We lost Judge Vela earlier this year. He is survived by his beautiful wife Blanca, and his three children, Filemon, Jr., Rafael, and Sylvia.

Mr. Speaker, I urge my colleagues to support this legislation in and honor these two great Americans for their service to this Nation.

Ms. NORTON. Mr. Speaker, I am happy to yield such time as he may consume to my friend the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the gentlewoman for yielding me time, and I thank my colleagues for their assistance in getting this piece of legislation to the floor, and I hope it will successfully pass with very little difficulty.

Mr. Speaker, I rise in strong support of the legislation, of course, but I do want to remind individuals, and I will be quick, because I know it has been a long evening and people have a lot of business, but I think Judges Vela and Garza deserve 1 minute of praise and recognition.

In 1961 when Judge Garza was first appointed, he was the first, as has already been pointed out, Mexican American Hispanic to be appointed to the Federal bench. It was the same year that my father was elected and he was the first Hispanic from Texas to have been elected to this House.

At that time, it was such a great celebration for all of us, but the truth was, we knew that they were the first, but we did not know they were not going to be the last. Things have not turned out that way, thank God.

But truly, to honor their legacies, I had the great benefit of being counseled and mentored and lectured to by both Judge Vela and Judge Garza when I was a State district judge in Texas, and I know the lessons that they imparted are still with me today, and they would reverberate today in this Chamber if they had an opportunity to meet with us, members of that other branch of government, the legislative branch, they would remind us of that incredible but very important balance and separation of powers. And their legacies will only be recognized and their contributions will only be recognized to the extent that the other two branches of government, the executive and the legislative, understand their service in the context of this wonderful, wonderful concept that we have here in the United States, in our democracy, three equal branches of government, checks and balances and separation of powers.

So I know if they were here today, they would say, ''Charlie, let us do our job. Let us go ahead and review what needs to be reviewed.''

It is the collective wisdom of that branch of government that really gives this Nation great guidance, as well as the leadership in this House and the leadership in the White House.

So to judges Vela and Garza, to their families, proper recognition tonight, but hopefully that in the future we honor their memory and their hard work by respecting the work that they did within the context of this wonderful framework called the United States of America.

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

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

Mr. Speaker, I urge our colleagues to support passage of the bill. I again want to congratulate the gentlewoman from the District of Columbia (Ms. NORTON), and look forward to sporting a new Washington Delegates baseball cap in the near future.

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 Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 1402, 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 designate the United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, as the 'Reynaldo G. Garza and Filemon B. Vela United States Courthouse'.''

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. LATOURETTE. 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. 5105, H.R. 3124 and H.R. 1402.

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

There was no objection.

## COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The Speaker pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
*Washington, DC, September 28, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker of the House, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 42 U.S.C. 242b note, I hereby appoint Mr. Thomas M. Priselac of Los Angeles, California, to the Commission On Systemic Interoperability.

Best regards,

NANCY PELOSI.

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## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONNER). 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.

## ENCOURAGING PROGRESS IN IRAQ

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, this past weekend, several of my colleagues and I journeyed to Baghdad and returned, and I would just like to make a few observations. Obviously, this is a very intense time in Iraq as the elections approaches, but I had three observations that I think were somewhat meaningful.

Number one, we were tremendously impressed by the morale and the attitude of our soldiers. One would say, well, how in the world could that be? It is 110, 115 degrees every day, body armor, helmets, very difficult work, some danger, considerable distance from family. I guess the main reason that we felt we were observing this was there seemed to be a very strong sense of mission, a very strong sense of purpose and accomplishment.

One thing that I often heard from the soldiers was this: they said, you know, it seems like there are two wars over here. There is the one that we see on CNN: we see the IEDs, individual explosive devices; we see the car bombs; we see the beheadings.

But the part of the story that we think is meaningful is not being told. They said, the thing that we see is that in education, 2,500 schools have been renovated, 30,000 teachers have been trained, there is an 80 percent increase in attendance in schools, and most of that is girls who have not been going to school at all under Saddam Hussein. Health care, 240 hospitals operating, 1,000 clinics, 90 percent of the children are currently vaccinated, and this again is something that had not occurred before.

So health care has improved. Infrastructure is getting better. Water supply, power, sewage. It still needs improvement, but it is doing better, and of course the provisional government and the June 30 hand-off. So what they were saying is please make sure the people in the United States understand that there is more going on than what many times they are hearing about.

The second thing that I thought was somewhat optimistic is that the Iraqis are providing more and more security. The goal is to train 270,000 Iraqis; 135,000 police; 100,000 Army and National Guard; and then 32,000 border guards. Right now we are a little bit more than halfway there. We are making excellent progress.

So in Najef, not long ago, Iraqi troops led the charge and, along with Ayatola Sustani, calmed a very dangerous situation. So we see progressively more and more operations with Iraqis taking the lead.

The third thing that I would say that was very encouraging to me is that in talking to the Iraqis, they very much want the elections. If the Iraqis do not care or if they do not want elections, then obviously the whole thing that we are doing is for naught. I talked to an Iraqi woman today and I asked her, I said, are the Iraqis willing to line up and take the risk on Election Day, and she said, without question we will have a tremendous turnout.

So Prime Minister Allawi told us last week, and this was confirmed on our trip, that roughly 15 out of 18 provinces are sufficiently secure right now to maintain elections, and the other two or three are coming around. Splinter groups who have been primarily terrorist-oriented in the past are now becoming politically active. They are beginning to realize that if they do not become part of the political process, they are going to be left out. So a lot of things are changing very rapidly. Iraqi women will tell you this, that they see their future as being much brighter. So when there is hope, I think there is a good chance.

So if we pull out, as many are currently advising, we will tell the families of the 1,000 soldiers we have lost that they have died in vain, and I do not think we can afford to do that. Secondly, we will have broken our promise to the Iraqis. We have told them that we will absolutely not do that, and many of them have trusted us. So if we pull out now, literally tens of thousands of Iraqis are going to lose their lives and will be sacrificed because of our duplicity.

Thirdly, I think if we show vulnerability as a Nation; and if we show that we do not have resolve and that we will not see something through, and if terrorists can steer our agenda here, we become more and more vulnerable to terrorist activities. So I do not think that we can afford to do this.

So at this point, as I see it, and I think some of those who were on the trip would also say that the only viable exit strategy is to win. When we say to win, we mean that we will stay the course until the Iraqis themselves are able to secure their country and be able to govern their country. This is not going to be easy, but we think it is doable. We were encouraged by what we saw.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

## SMART SECURITY AND IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the Bush administration loves to tout George W. Bush's willingness to stay the course as the source of his strength as a President. Day after day, the President and his surrogates use this ''resolve'' to demonstrate why he should be reelected.

The sad truth is that President Bush's resolve amounts to little more than a campaign tool to disguise the fact that his administration's policies have increasingly made Americans far less safe in the world. The President's resolve is actually nothing more than his attempt to lead our Nation while wearing blinders.

President Bush failed to demonstrate resolve in fighting terrorism in the days before the September 11 terrorist attack. In fact, he vacationed at his ranch in Crawford, Texas, for the entire month of August in the year 2001, neglecting to act on his daily intelligence briefings which specifically warned against terrorists crashing planes into large city buildings.

Since September 11, President Bush has continued to fail in his resolve to fight international terrorism. Despite a promise to apprehend Osama bin Laden, dead or alive, President Bush actually pulled troops out of Afghanistan in the year 2002. This grave error

allowed the al Qaeda leader to flee to the shadowy hinterlands between Afghanistan and Pakistan.

Early in 2002, with bin Laden still on the loose, President Bush turned his attention to Iraq. Citing the threat of Iraq's nuclear weapons program and Saddam Hussein's links to al Qaeda, Bush marshaled a war resolution through Congress.

Resolve, however, was not enough to win the support of the United Nations; so our President, determined to stop Iraq's supposed nuclear threat, went to Iraq with the support of only a loose and fragmented coalition of other countries.

Since the beginning of the war in Iraq, no weapons of mass destruction have been found and no evidence has ever linked Saddam Hussein to al Qaeda. Still, the President's handlers point to his resolve as a source of strength. Strength for whom? The terrorists who have escaped from America's grasp as we shamefully turned our attention to Iraq? The leaders of Iran and North Korea who continue to develop the deadliest weapons known to man? Resolve, as thousands of insurgents savagely attack our soldiers and Iraqi civilians? Resolve, as more than 1,000 American soldiers and at least 13,000 innocent Iraqi civilians are killed in Iraq? And let us not forget about the more than 7,000 U.S. soldiers who have been gravely wounded. Where is the resolve to protect our troops?

I, for one, am sick and tired of the White House calling it resolve when President Bush continues to focus on Iraq at the expense of other, more important issues.

Today the House voted to reallocate $3.4 billion of last year's $18.4 billion supplemental, using it for military purposes instead of for Iraq's reconstruction. So now we are forced to pilfer money that is supposed to pay for infrastructure needs for the Iraqi people.

This, after spending less than $2 billion of the $18.4 billion allocated for Iraq's reconstruction in the first place. I do not consider that resolve; I consider it malignant neglect of an entire country's needs.

There has to be a better way to handle the quagmire in Iraq. That is why I have introduced H. Con. Res. 392, a SMART security platform for the 21st century. SMART stands for Sensible Multilateral American Response to Terrorism.

SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements, and vigorous inspection regimes.

If we had pursued a SMART security strategy in the first place, America would not be embroiled in this violent situation in Iraq. Let us not forget that Saddam Hussein did not have a nuclear weapons program and Iraq did not have ties to al Qaeda. Instead of blindly focusing our country's resources on a conflict that has nothing to do with American security, President Bush should take off his blinders and focus on the real threats to our country.

How can we be secure if our public schools are failing our children and 40 million Americans lack health insurance? How can we be secure when our President's shameful tax cuts force our children to repay America's debt for the next several decades?

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The SPEAKER pro tempore (Mrs. MILLER of Michigan). 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 addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## THE JUDGES OF MADISON COUNTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Madam Speaker, the previous speaker makes me want to spend my next few minutes talking about another subject. I guess what I need to do is just totally say that I am sorry to be in the same room with some of those remarks, but I will stay on my subject tonight, because I rise tonight to begin a discussion of the ''number one Judicial Hellhole'' for 2003, as named by the American Tort Reform Association.

A year ago, prior to a long list of complaints I received from Georgia companies, I had never heard of the place known as Madison County, Illinois. Now that has changed within the last year; and from the facts that I have heard, it seems that the judges of all people of Madison county regularly apply the civil laws in an unfair manner and violate the fundamental constitutional rights of defendants, particularly those that hail from other States. One might wonder why a person from Georgia would be complaining about judges in Illinois. Well, the reason is they are affecting my constituents and the citizens of my State.

Madam Speaker, I could not sit on these complaints from good Georgia companies any longer. I sent a letter to Attorney General Ashcroft on September 10 asking for a formal investigation of Madison County.

Little did I know that this letter would send the attorneys of Madison County into complete temper tantrums. It should. They are guilty of lining their pockets at the expense of their clients. Yes, at the expense of their clients. And perhaps, Madam Speaker, one of the most guilty is Randall Bono.

Mr. Bono's law firm, Simmons-Cooper, generated over $1 billion in settlements in 2003. Somewhere between 30 to 40 percent of those settlements were kept by that firm. The public service that Mr. Bono has offered in his career includes two lawsuits against Ameritech. He walked away with $16 million. His clients each got a $5 phone card.

Contrary to the comments Mr. Bono made during his tantrum, my only motivation is to protect the companies of Georgia from frivolous lawsuits. Not only do those frivolous lawsuits triple car insurance rates for the people living in and around Madison County, they also send doctors fleeing from the region and, of the greatest concern to me, they force American companies to close up shops and take good American jobs overseas to avoid such harassments.

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These kind of illegal shenanigans do cause outsourcing of jobs. We are all suffering, and for what? To line the pockets of lawyers like Bono?

The letter I sent to Attorney General Ashcroft is five and a half pages full of cases where defendants' constitutional rights to due process have been violated. I can take all night reviewing them, and I will outline them over the coming weeks. However, what I want to outline here is a possible reason why Madison County has become such a judicial hellhole.

Between 1980 and 2002, 90 percent of the contributions made to Madison County judicial candidates came from plaintiffs' lawyers. Judges have received tens of thousands of dollars in contributions, even in the years that they are unopposed. Several plaintiffs' firms with no Madison County office have contributed money to Madison County judicial campaigns.

Madam Speaker, I have a strong belief that when Attorney General Ashcroft looks into the situation in Madison County, he is going to find that the cases I have outlined are just the tip of the iceberg.

I take it very personally when judges try to legislate from the bench. I take it even more personally when they overreach their power and steal from good companies in Georgia.

This will be an ongoing thing, Madam Speaker. I will report to my colleagues every night of how we are doing in the hellhole of the United States, Madison County, where the judges and plaintiffs' lawyers are stealing from the people.

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## NAMING POST OFFICES SHOULD NOT TAKE PRIORITY OVER BASIC CONGRESSIONAL RESPONSIBILITIES

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Madam Speaker, I would like to thank my colleague beforehand who spoke, and I am pleased to be here in the chamber when he did.

Yesterday, on the subject of the marriage amendment and D.C. gun-rights bill, the House majority leader said yesterday, ''It is our job to make the laws in this country, and as easy as life would be for us if the most controversial bill we had to vote on was to rename a post office, that's not what we were elected to do.''

I find the majority leader's comments almost ironic. I have done some research.

This Republican-led Congress, the 108th, the House and Senate, has been hard at work naming post offices. In fact, more post offices were named in this Congress than ever in the history of the Congress. In fact, under the Republican leadership, we have named an impressive 94 post offices, just three last night. We have also named 22 Federal buildings, passed 34 resolutions honoring athletic teams, introduced 35 resolutions creating commemorative postage stamps, recognized the Garden Club of America, recognized the importance of music education and authorized the use of the Capitol grounds for the soap box derby.

This is in stark contrast to when the Republicans first took control of the House in the 104th Congress. They only managed to name 12 post offices, compared to 94 this Congress. The 106th only squeaked out a pitiful three resolutions honoring sports achievements.

Without question, this Congress has proved that it is the most adept at naming post offices and Federal buildings, honoring sports achievements and conceiving of new postage stamps of any Congress in the history of the United States.

It takes a lot of time and effort to name a post office. First, you have to decide which post office to name. This is not an easy task. Then you have to pick a name, build support for it back home among your constituents and among your colleagues. The final test is to get a vote on the name, which is no small feat when you consider only one out of every 100 bills ever sees a floor vote.

However, in this Republican-led Congress, 80 percent of the post office naming bills introduced in the House have actually been passed. That is a record to be proud of.

But while we have spent all this time naming post offices, we could have been dealing with the problems some of the American people are facing.

While Congress worked on the backlog of nameless post offices, we have lost 1.7 million jobs here in America; median household incomes fell by more than $1,500; household bankruptcies have sky-rocketed by over a third in the last 2 years; and health care costs are rising at three times the rate of inflation; and 5 million more Americans find themselves without health insurance, for a record 44 million Americans.

More than 1,000 Americans have been killed in action in Iraq. Reconstruction has been pushed to the sidelines because of mounting violence, and we have not found any weapons of mass destruction or called oversight hearings in this Congress about why we went to war on that premise.

President Kennedy once said, ''To govern is to choose.'' Unfortunately for us and unfortunately for the country, this Republican Congress has made some very tough choices.

Time after time, the Republican leadership has been forced to choose between naming post offices and using its control of the House, the Senate, the White House and the Supreme Court to improve the lives of millions of Americans. More often than not, they chose to name post offices.

Please do not misunderstand; I am not opposed to naming post offices. In fact, I have cosponsored a few pieces of resolutions naming post offices myself. Congress should do these things, but we should not do it at the expense of other activities and other responsibilities.

We should not use it as an excuse not to deal with the health care crisis in America; not to deal with the higher education crisis in America; not to deal with the stagnant wages and income in America; not to deal with a war for which we do not have an effective policy and a President who does not know it is a burning morass, as three Republican Senators said just last week; nor should we use them as excuses for failing at our most basic responsibilities.

It is now past 7 months before we passed a budget resolution, which is a responsibility of Congress. We have not done it. We have only passed one of the 13 appropriations bills we are required to pass. We have not passed a higher education reauthorization act required by law this year. We have failed to reauthorize a series of laws. We have not yet passed the highway and mass transit bill which employs billions of Americans in good paying jobs and guides this economy, and yet we have taken the responsibility with precious time that we are here to name 94 new post offices.

Our Nation and economy rely on the most basic functions of Congress. Yet, this Congress, the Republican Congress, has failed on both. We can do better. Congress can name post offices and keep our Nation moving forward.

Mr. Speaker, election day is only weeks away. I hope, when Americans go to the polls, they will reflect on what kind of job this Congress has done. Republican leadership has made their priorities clear, and that is for new post offices and the naming of new post offices in America.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

(Mr. HENSARLING 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 American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

(Mr. FALEOMAVAEGA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## ORDER OF BUSINESS

Mr. STUPAK. Madam Speaker, I ask unanimous consent to proceed out of order and address the House for 5 minutes.

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

There was no objection.

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## THE NEED FOR MORE RESEARCH AND MANAGEMENT OF RISK OF ACCUTANE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Madam Speaker, I rise tonight to inform the American public on the safety concerns of Accutane. Accutane is a dangerous, powerful prescription drug approved by the Food and Drug Administration in 1982 to treat severe, recalcitrant, nodular acne that is unresponsive to conventional treatments, including antibiotics. Today, approximately 1.5 million prescriptions are written each year to hundreds of thousands of young people.

The horrific birth defects associated with Accutane are well-known and understood. The psychiatric effects associated with the drug, including depression, suicidal thoughts and behavior, suicide and aggression are less known and are denied by its manufacturer, drug company giant Hoffman-LaRoche.

Tonight, I want to share the results of a study that sheds light on these psychiatric effects. Dr. J.D. Bremner of Emory University recently completed a study which demonstrated that Accutane affects the metabolism of the orbitofrontal cortex, a brain area known to mediate symptoms of depression. If you look at this chart, Dr. Bremner had two PET scans, the baseline PET scan before the patient began Accutane therapy and 4 months into the Accutane therapy. Even my inexpert eyes can tell the difference, and Dr. Bremner will present his findings in November to a convention of psychiatrists studying this issue.

For every question Dr. Bremner's work may answer, there are other questions that need to be answered about the psychiatric effects of these drugs. These scans show the promise more research can hold.

If you take a look at these, you can see there is a 21 percent change in the metabolism of the front orbitofrontal cortex. These scans show the promise of more research, and Hoffman-LaRoche has always denied that Accutane affects the brain. We know this is not true, as the PET scans show. This person had a 21 percent change in

their orbitofrontal cortex of the brain. Is this damage to the brain permanent? Only more research will answer this question.

I do not know why the FDA and Hoffman-LaRoche seem reluctant to look for these answers. The FDA has already determined that the link between Accutane and psychiatric events is strong enough to require a bold warning on the physician label and the packaging label for this drug.

The FDA should also re-examine previous studies submitted on Accutane. A 2001 review of three studies that were not disclosed by the drug company found the drug to cause an excessive serotonergic response and concludes that it should be noted that increased serotonergic function is presumed to be the mechanism of action of a major class of antidepressants or SSRIs, or selective serotonin re-uptake inhibitors. In other words, Accutane acts like antidepressants in the brain so it couldn't possibly cause psychiatric effects.

We all realize the uproar that has been caused by the FDA when they would not allow their own expert to testify that antidepressants used in young people were ineffective and increased suicidality. The British came to the same conclusion, and they banned the use of antidepressants in people under the age of 18.

Just 2 weeks ago, the FDA finally declared that there is an increased risk in suicidality in children who take SSRIs. It has created a firestorm of debate about how safe these drugs are and how they affect kids.

Yesterday's Wall Street Journal had a story about the possible reasons why there is an increase of suicidality of children who take antidepressants. The story says, ''One hypothesis is that, in some patients, these drugs have a disinhibiting effect,'' says one Wayne Goodman, chairman of the FDA panel that examined the issue in young people. ''Children are already a bit disinhibited because their brains aren't fully developed.'' Remember, in 2001, Accutane studies that the FDA reviewed concluded that Accutane was like the antidepressants with its SSRI function.

The FDA must demand a full accounting of how these drugs, both Accutane and antidepressants, affect our children and their developing brains.

There is no excuse for allowing Accutane to be prescribed to hundreds of thousands of kids without, at the very least, continuing to demand answers as to the effect of this drug on the brain.

At the very least, FDA can begin to address the ''off label'' use of this drug, but yet the FDA estimated in 2002 that 90 percent of the prescriptions were written for ''off label,'' meaning they were not written to treat severe acne unresponsive to other antibiotics.

At the very least, FDA can finally approve a mandatory risk management plan to track Accutane's side effects and prevent thousands of pregnancy exposures, miscarriages and abortions each year. FDA advisory committees have called for stricter distribution of the drug and a registry of the patients to control the use of this drug. They have called for this twice in the last 4 years. Unfortunately, the FDA has ignored these recommendations, and the same failed policy and system is in place with this drug.

Last week, I and a few of my colleagues shared our concerns with the Secretary of Health and Human Services Tommy Thompson about the lack of action on implementing these advisory committee recommendations.

The birth defects caused by Accutane are similar to those of thalidomide. People of my generation and older remember vividly the thalidomide babies of the 1960s.

Over 1.5 million prescriptions for Accutane and its generics were written in 2003, and clearly, Accutane has the potential to do greater damage, so why do we not have the same controls as we do on thalidomide?

Madam Speaker, my time has expired, and I will insert the rest of my remarks at this point in the RECORD.

It's no secret that I am no fan of the FDA's handling of Accutane or the drug company, HLR's, constant denial that Accutane does not cause depression or affect the brain—we know with this PET Scan their denials are baseless! However, I am appalled at the FDA's inaction on this registry. That's why in June, I joined with colleagues on both sides of the aisle and introduced the Accutane Safety and Risk Management Act (H.R. 4598). The legislation would create a mandatory program to manage the drug, and includes provisions to protect the health of patients and their children. To make sure we do not allow our children and their developing brains to be destroyed.

History suggests that unless there is strong leadership from Congress on this issue, the Advisory recommendations to the FDA will end up collecting dust on a shelf.

I hope my colleagues on both sides of the aisle will join me in cosponsoring this important legislation to send a strong message to the FDA and HLR that we will not accept their inaction any longer.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## SUPPRESSING THE COST ESTIMATE

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. Madam Speaker, November 17 a year or so ago, just three weeks before the Medicare bill was signed into law, President Bush said this law would cost $400 billion. That is what he told the American public. That is what he told the Congress. Five months earlier, his actuaries in the center for Medicare/Medicaid services, the Medicare bureau, estimated the President's Medicare bill would cost $534 billion.

I am not saying that the President lied about this, but it is pretty clear the President's people knew this bill cost $134 billion more than it really did. Whether the President knew about it, whether his top aides told him, remains a question.

Now, the White House says, though, the bill will cost $576 billion. It is bad enough that the President and Republicans in Congress advertised one thing to this Congress and to the American people and sold them on another. What is worse is the deliberate nature of this deception and tactics used to achieve it.

□ 1945

But let us go back and look at this whole Medicare bill and how we ended up where we did, starting from the time the drug industry and the insurance industry met in the Oval Office with President Bush and wrote the bill. Starting with then and following through all the way until Labor Day weekend, 3 weeks ago, where the President announced a 17 percent, a record increase, 17.4 percent in Medicare premiums that seniors will be forced to pay.

First the bill was written with President Bush and Vice President CHENEY sitting down with the drug industry, sitting down with the insurance industry and writing a Medicare privatization bill. You know that it was written by the drug and insurance industry because the drug industry profits go up $180 billion under this bill, that is $180 billion with a ''b,'' and you know the insurance industry was part of this because they benefit to the tune of billions of dollars in direct subsidies from seniors through increased premiums and taxpayers in increased dollar subsidies to the insurance industry.

Now, we also know that the passage of this bill was perhaps the most sordid spectacle we have seen in this Chamber of the House of Representatives in decades. The debate started at midnight, the votes started at 3 o'clock in the morning after most of the press had gone home and after most Americans had turned their televisions off. Normally, a vote takes about 20 minutes, but this took 2 hours and 55 minutes. There was arm-twisting on the House floor, when this bill was actually defeated, for the first 2 hours and 45 minutes. The bill was down 216 to 218. We also know that there was a Member of Congress from Michigan, Republican, who the next day told a radio station in Michigan that Republican leaders attempted to bribe him on the House floor with campaign money. We know

all of that. And we know that as a result of this bill, we end up with a 17 percent premium increase.

So the vote was taken in the middle of the night when people were not paying attention, Members of Congress had their arms twisted and were made promises, with one Member of Congress reporting an attempted bribe, and we also know that come March, after this bill passed, that even though the drug benefit does not start until 2006, we find out that starting in March, the Federal Government and seniors whose premiums have gone up begin to pay a monthly payment to the Medicare HMOs.

In March 2004, Medicare HMOs were paid $229 billion by taxpayers. In April of 2004, the Medicare HMOs were paid by taxpayers and Medicare beneficiaries through a premium increase of $229 billion. In May, June, July, August, and September, every single month, taxpayers and Medicare beneficiaries have paid HMOs $229 billion. Next month, November, December, and all of next year, the government and seniors will pay $229 billion to the Medicare HMOs, and the drug benefit does not start until 2006.

There are 22 months of direct payments from seniors through an increased premium, and taxpayers, to the tune of billions of dollars, 22 months of $229 billion a month payments to the insurance industry, insurance company HMOs, from seniors and taxpayers, even though the drug benefit does not start until 2006.

Mr. Speaker, you can see the perfect circle here. You can see that the bill was written by the drug and insurance industry with the President and the Vice President and Republican leaders. The drug and insurance industry get huge subsidies, much bigger profits, direct subsidies, with seniors paying a 17.4 percent premium increase, and taxpayers paying billions of dollars in order to pay off the insurance industry and the drug industry. And the completed circle ends this way: with the President and Republican leaders of this Congress getting tens of millions of dollars in campaign contributions from the drug and insurance industry.

It is corrupt, it is shameful, and it is morally reprehensible.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman will refrain from improper references to the President and Vice President.

Mr. BROWN of Ohio. What was that, Madam Speaker?

Madam Speaker, I do not understand. I did not say the President. What did I say that was improper?

The SPEAKER pro tempore. Improper references to the President and Vice President, whether by accusation or innuendo are not in order.

Mr. BROWN of Ohio. Madam Speaker, I only said that the President and Vice President sat down with the drug and insurance industry and wrote this bill, and I never said the President did anything illegal. I questioned that it was the right thing to do. Am I not allowed to say that, Madam Speaker?

The SPEAKER pro tempore. The gentleman may not, even by innuendo, allege a quid pro quo between receipt of campaign contributions and public-policy decisions.

Mr. BROWN of Ohio. Madam Speaker, I really just want to make sure I understand. So if the President wrote a bill with the drug and insurance industry, then by my saying that the drug and insurance industry gave money to the President's campaign, that is improper to say?

The SPEAKER pro tempore. The gentleman's characterization of the process as corrupt conveyed the impression of undue influence.

Mr. BROWN of Ohio. Madam Speaker, I was talking about the leadership of this Congress being corrupt by passing a Medicare bill the way they did.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## THE THREE Rs

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, the three Rs used to stand for reading, writing and arithmetic. Now the three Rs stand for Republican rhetoric is not reality. Here is the proof.

Under this administration, Bermuda has become corporate America's favorite destination. And I am not talking about vacations. The Tax Code encourages and rewards U.S. companies to set up storefronts offshore to exploit their profits, with $75 billion last year alone, and avoid U.S. taxes.

And if the administration has its way, it will get even worse. The armored trucks, loaded with U.S. corporate profits, will be lining up at the docks waiting to transfer the money out of our country. It is made to work that way. Policies by the administration and approved by the Republican House are costing the American people between $10 billion and $20 billion a year in exported tax revenue, money that should go for health care, education, senior citizens, and worker retraining. The need is there but the revenue is somewhere else.

U.S. companies deserve to make a profit, but America deserves to have everyone pay their fair share to support the country that gave them the opportunity to make those profits. Indeed, the administration has put corporate interests ahead of America's interests. It is a double-edged sword and both sides are hurting the American people.

More corporate profits are being shifted offshore and more corporate expenses are being shifted on to the workers. Over the last 4 years, health care premiums paid by American workers have risen three times faster than the average earnings. Today, over 14 million Americans spend at least 25 percent of their earnings on health care costs.

And let me clarify something, Madam Speaker, before the Republican rhetoric kicks in. Those 14 million Americans, spending at least 25 percent of their earnings on health care, all of them are under the age of 65. It is the middle class, in other words, that is being struck under the burden of administration policies that put corporate interests ahead of America's interests.

Over the last 4 years, health care premiums in 26 States have risen more than 40 percent. What did the administration do in response? Reward the drug companies with more profits and renege on a promise to senior citizens. Americans today, old and young alike, are paying more and earning less. And Americans are going to be paying a lot more in the coming years.

When the administration exported the U.S. Treasury into the bank accounts of the rich, America was left holding an IOU that is a black hole on America's future. There is no way to see in it, through it, or out of it. Fully one-half of that massive deficit this year alone is a direct result of the administration's fiscal binge. They have created a mountain of debt and a mole hill of economic progress.

Despite the Republican rhetoric, the administration is short at least 100,000 jobs per month. Per month. Despite the Republican rhetoric, the American people know that. Consumer confidence was down again last month because people are not buying the administration's rhetoric. The number of consumers saying jobs are hard to come by went up. Consumers drive the U.S. economy. They are worried, and with good reason. The number of people living in poverty is up. The number of people without health care coverage is up. The number of people who have exhausted long-term employment benefits is dramatically up.

And then, Madam Speaker, there is Iraq. Escalating casualties, chaos, and crisis lead the President to conclude things are getting better. That must explain why over one-third of former soldiers called up this month and ordered to report for active duty in Iraq have not shown up.

Americans can tell the difference between a photo op in the Rose Garden and a reality check in Iraq. Things are not getting better. At every opportunity to talk straight to the American people, the administration has chosen to sacrifice credibility in hopes of perpetuating its story. Trouble is, the real story about Iraq is every night on the news. The administration can try and change the rhetoric, but the American people are not changing the channel. They know what they see and read. They know it is not what the administration claims. They know that only new leadership will solve the crisis in Iraq and revive the economy at home.

The administration had its chance, again and again and again and again. The rhetoric got better, even as the reality got worse, and even as we went further into debt, and even though the debt is the biggest we have ever had in our history in 1 year. That is the choice facing America. Believe the administration's rhetoric about Iraq and the economy, or elect JOHN KERRY to take care of reality.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. VAN HOLLEN) is recognized for 5 minutes.

(Mr. VAN HOLLEN 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 Ohio (Mr. RYAN) is recognized for 5 minutes.

(Mr. RYAN of Ohio 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 Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

(Ms. EDDIE BERNICE JOHNSON of Texas addressed the House. Her 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 Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

(Mr. STRICKLAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## UPCOMING ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Madam Speaker, last week, a number of members of the Congressional Black Caucus, myself included, addressed the issue of upcoming elections, with particular attention going to voter intimidation, oppression, and suppression. I congratulate the Congressional Black Caucus, and particularly the leadership of our chair, the gentleman from Maryland (Mr. CUMMINGS), for making Americans aware of this very serious issue.

The sad truth is that in every election since reconstruction, in every election since the Voting Rights Act passed in 1965, voters, and particularly African Americans and other minorities, have faced calculated and determined efforts at intimidation and suppression, both above and below the Mason-Dixon line, indeed throughout the Nation.

It appears that the upcoming national elections will not break that pattern. In an article on the op-ed page of Monday's Washington Post, former President Jimmy Carter states the following: ''The disturbing fact is that a repetition of the problems of 2000 now seems likely, even as many other nations are conducting elections that are internationally certified to be transparent, honest, and fair.''

President Carter cites two significant requirements for free and fair elections. First, standards that the State of Florida still fails to meet. The first is a nonpartisan electoral commission or a trusted and nonpartisan official who will be responsible for organizing and conducting the electoral process. And the second requirement is uniformity in voting procedures so that all citizens, regardless of their social or financial status, have equal assurance that their votes are cast in this same way and will be tabulated with equal accuracy.

Madam Speaker, as many of my colleagues know, President Carter is not speaking off the cuff when it comes to election monitoring. The world renowned Carter Center has monitored more than 50 elections around the world, many under difficult and dangerous circumstances. When it comes to certifying that elections are free and fair, the Carter Center is the gold standard. People listen and they take note.

They listen and take note, it appears, everywhere in the world but here in the United States.

President Carter is dead-on target in stating that ''It is unconscionable to perpetuate fraudulent or biased electoral practices in any nation. It is especially objectionable among our Americans, who have prided ourselves on setting a global example for pure democracy.''

That is why I introduced House Resolution 793, a sense of Congress resolution, condemning all efforts to suppress and intimidate voters in the United States and reaffirming that the right to vote is a fundamental right of all eligible United States citizens.

□ 2000

The resolution also urges States to replace decade-old election machinery with less error-prone equipment before the November 2004 national elections; calls upon all States to institute a moratorium on the erection of roadblocks or identity checkpoints designed to racially profile voters on Election Day, and calls upon the Attorney General to vigorously monitor all credible allegations of voter intimidation and suppression and to expeditiously prosecute all offenders to the full extent of the law.

Mr. Speaker, House Resolution 793 is a simple resolution that reaffirms the most basic right of every American, the right to vote and have their vote counted. This is not a partisan issue. It is not a Democrat or Republican issue, and I would note, however, that not one single Member on the other side of the aisle has cosponsored this resolution.

Can anyone take comfort in conducting elections under flawed circumstances that depart from the principles of fair and equal treatment? Can anyone condone an election that perpetuates fraudulent or biased electoral practices? I certainly hope that our Nation's noble experiment in democracy has not.

Madam Speaker, in closing, I want to briefly address another issue of voter inequity. This past weekend I held a voter awareness workshop in my congressional district for ex-offenders. It is a model for the rest of the Nation, and I would hope that we would look to letting ex-offenders exercise their right to vote after they have served their time and paid their debt to society.

Last week, a number of members of the Congressional Black Caucus, myself included, addressed the issue of the upcoming elections, with particular attention given to voter intimidation, oppression, and suppression. I congratulate the Congressional Black Caucus, and particularly the leadership of our Chair, Congressman ELIJAH CUMMINGS, for making Americans aware of this very serious issue.

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President Carter cites two significant requirements for free and fair elections—standards that the State of Florida still fails to meet: The first is "a nonpartisan electoral commission or a trusted and nonpartisan official who will be responsible for organizing and conducting the electoral process"; and, the second requirement is "uniformity in voting procedures, so that all citizens, regardless of their social or financial status, have equal assurance that their votes are cast in the same way and will be tabulated with equal accuracy."

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comes to election monitoring. The world-renowned Carter Center has monitored more than 50 elections around the world, many under difficult and dangerous circumstances. When it comes to certifying that elections are free and fair, the Carter Center is the gold standard; people listen and take note.

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Mr. Speaker, in closing, I want to briefly address another issue of voter inequity. This past weekend I held a voter awareness workshop in my congressional district for ex-offenders. In many States around the nation, ex-offenders' right to vote is either restricted or banned. This week the Sentencing Project released a study showing that African American men in Atlanta were 11 times more likely than non-African American to be disenfranchised. Nationwide, an estimated 5 million Americans are affected by felony voting restrictions. African-American males account for about 8 percent of the U.S. population and 40 percent of the prison population.

The high numbers of disenfranchised African American males casts a pall on voting. Why should any State have the authority to restrict the right of persons to vote who have paid their debt to society? This is fundamentally unfair and unjust.

Mr. Speaker, the credibility of our Nation is under attack from around the world. We cannot afford to witness another election debacle like the one we experienced in 2000. It is time for the American public and this body to sit up and take note of a potentially serious crisis facing the United States.

## MARRIAGE PROTECTION

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Mexico (Mr. PEARCE) is recognized for 60 minutes as the designee of the majority leader.

Mr. PEARCE. Madam Speaker, I thank the body for allowing us to speak tonight on this extremely important issue.

The state of a society is an ongoing process. We tend to want to think that we can pass along our values and the rights and freedoms that we have in a current age to those in the next generation. For instance, I just think that I can pass along the right to my daughter, who can pass along to our grandson and granddaughter the rights to own a business or the rights to a public education, or maybe even the right to understand exactly what society is about, the good parts and the bad parts.

Well, the Nation is involved right now in a discussion about what is best for America when it comes to marriage. The Massachusetts Supreme Court made a decision a couple of months ago that began to cause us all to think about what is the right definition for marriage, how should we change it, why should we change it, or should we change it.

We have several Members here on the floor tonight to help present this discussion to this body, and I yield to the gentlewoman from Colorado (Mrs. MUSGRAVE) who is the sponsor to the amendment to the Constitution that would declare marriage as simply between a traditional man and woman.

Madam Speaker, I yield to the gentlewoman to explain her ideas.

Mrs. MUSGRAVE. Madam Speaker, the best gauge of whether the American people want the definition of marriage to be a union of a man and a woman is to look at elections in recent activities in the States on this subject.

Madam Speaker, voters in 7 States have gone to the ballot box to enact either a State Defense of Marriage Act, to pass State marriage amendments, or to permit the State legislature to define marriage, thus preventing a State court from doing so. Each time the initiative passed overwhelmingly.

The people of Hawaii voted with 69 percent approval to pass a State marriage amendment. The people of Alaska voted with a 68 percent approval to pass a State marriage amendment. The people of California voted with 61 percent approval to pass a State defense of marriage statute. The people of Nebraska voted with 70 percent approval to pass a State marriage amendment. The people of Nevada voted with a 70 percent approval to pass a State marriage amendment. The people of Missouri voted with 71 percent approval to pass a State marriage amendment. The people of Louisiana voted with a 78 percent approval to pass a State marriage amendment.

Madam Speaker, 44 States have recently enacted laws that provide that marriage shall consist only of a union of a man and a woman. These 44 States constitute 88 percent of the States, well more than the three-fourths required to approve a constitutional amendment, and they include 86 percent of the United States population. The American people have spoken on this subject. It is time that Congress send to the States the marriage protection amendment so that States can decide for themselves whether to ratify the policy that marriage is the union of a man and a woman. Marriage is what really matters to the American people, to the American moms and dads, to the American children. It is just common sense.

Mr. PEARCE. Madam Speaker, I thank the gentlewoman from Colorado (Mrs. MUSGRAVE) for cosponsoring this amendments.

We hear a lot of discussion in this Nation about tolerance and about diversity and we should hear all sides of the discussion, but I will tell Members that the same people who shout loudest about tolerance and diversity have been the same people who have attacked the sponsor of this amendment to the Constitution. She has had threats made on her life. She has had slurs and insults thrown into her face, and she has tolerated abuse no one should have for simply speaking in America.

I worry in this same discussion about what the marriage is and what the family is and what it consists of, I worry that the opponents in this argument really do not want free speech, they do not want a public discussion. And that is what we are saying on this side of the aisle, that the discussion should be taken to the American people, that judges who are not elected should not make this decision; and that is exactly what is going to happen if we do not have the courage to make a stand and to identify what we think is the language which should amend the Constitution of the United States.

Madam Speaker, I thank the gentlewoman for having the courage to withstand the death threats from the people who disagree with her, and for standing tall and for defining the moment in American history that is before us right now.

Madam Speaker, I yield to the gentleman from Indiana (Mr. PENCE) to talk about this issue.

Mr. PENCE. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for leading this Special Order tonight. I thank him for his courageous leadership as a freshman.

Madam Speaker, I associate myself with the remarks about our previous speaker. While we address the Speaker, we are nonetheless cognizant at times many millions of Americans look into our deliberations on this floor, and I think it is altogether fitting to recognize that a freshman, the gentlewoman from Colorado (Mrs. MUSGRAVE), arrived in this institution and brought her support for traditional marriage to the floor of this Congress, and has turned her face like flint against the

wind and has brought us to this point where we are on the eve of an enormously important vote in the life of our Nation, and I commend the gentlewoman for her tenacity and courage. To a lesser extent, I commend the people from Colorado for sending leaders like the gentlewoman to this institution.

That said, we are here tonight for the purpose of gathering thoughtful colleagues like the gentleman from New Mexico (Mr. PEARCE) and those that will follow to consider out loud what will no doubt be lost in sound and fury on this floor tomorrow when the Marriage Protection Act, a constitutional amendment that defines marriage in the traditional terms as a union between a man and a woman, is brought to the floor of the House of Representatives.

There are those, and it is almost understandable in a season where a national election is just around the corner, there are those who will say this is politics. The more initiated among us would use phrases like ''wedge issues'' to explain the value of tomorrow's vote. But I must say and I believe I speak for the heart of this President whose moral courage has brought us to this vote today, of the leadership of this majority, of Republicans and even many Democrats who will tomorrow stand for this constitutional amendment when I say this is not about politics. This is, as the gentleman from New Mexico (Mr. PEARCE) said, this is about who we are as a people. This is about the foundations of our society. It is about what it is we will hand on to our children and grandchildren.

In my judgment it all comes down to the simple belief, that is millenia old, that marriage matters. In one debate after another with some constituents in Indiana and in some national broadcast forums, I have allowed people who disagree with me on the need for a constitutional amendment. I have said if you do not think marriage matters to children, to communities, and thereby to the life of the Nation and to the vitality of our civil society, then I can understand why you would not be prepared to go to the necessary means of a constitutional amendment to defend it and define it in traditional terms.

But if you believe, as I do, and as survey after survey shows us, that the overwhelming majority of the American people do, that marriage matters, that far beyond the conviction that I share and that millions of Americans share that it first matters because it was ordained by God, we see it even beyond those terms as an institution upon which our society was founded. Rightly understood, marriage and the family is the first and original unit of government. It is the glue of the American family and it is the safest harbor for raising children.

None other than a predecessor who represented northeastern Indiana on this floor from 1976 to 1980, Dan Quayle, made this point when he was Vice President of the United States in 1992. Dan Quayle, against a withering assault, suggested in a national debate that the statistics proved that children who were raised, however imperfectly, in a two-parent home with a mother and father did significantly better in avoiding all types of social maladies than children, who for whatever reason, no fault of their own or their parents, found themselves in a different circumstance.

Dan Quayle's Murphy Brown speech became a national political joke, Madam Speaker, until after the election was over and the esteemed Atlantic Monthly Magazine pulled together a group of psychologists and sociologists and published in February 1993 that famous headline ''Dan Quayle Was Right''; because what Vice President Quayle said is even more true today, that children that are raised in traditional two-parent homes find themselves, for whatever reason, but looking at the facts, find themselves able to avoid a host of social maladies that beset our children: teen pregnancy, sexually transmitted diseases, falling into gang violence or drugs, dropping out of school. Children raised in two-parent homes are significantly less likely to fall into those maladies.

That is not to say that single parents are less significant to our Nation. My wife was raised by a single mom, and we laid her to rest early this year, and I honor single moms maybe more than any other moms in our Nation because they bear such an extraordinary burden with such dignity and grace.

But in the development of social policy, you recognize good, better, and best, and the reality is the sociologists have spoken; the unflagging truth of western civilization and of modern American history is that marriage matters to kids and therefore is worth being preserved.

My second and only other point before I yield to my colleagues is much addressed to all of us who will consider this debate on this floor tomorrow. I am a conservative Republican Member of this Congress, and yet I have noted there are conservative colleagues of mine who are troubled that we are bringing an amendment to the Constitution every bit as much as there are liberal Democrat colleagues of mine.

□ 2015

And so I wanted to take just a few more minutes to speak about why this Marriage Protection Act is necessary to amend the Constitution of the United States, because I truly believe that it is.

Let me say from my standpoint, the constitution of a nation rightly understood as the supreme law of the land of which it is a part is a document, yes; but as John Locke first described, it is part of a charter between the people. What I would offer today, the question is not whether our charter will be changed, or whether marriage will be defined one way or another in our social contract. Rather, it is whether that definition will be brought by the people in an orderly amendment process to the Constitution or whether this issue in a constitutional perspective will be decided by unelected Federal judges. That is it.

The point that I will make here in the few remaining minutes that I will take I hope, Madam Speaker, will make this point. This issue is coming to the fore. It is coming to our Federal courts. As I will prove in a few moments, the United States Supreme Court, which I venerate and respect, has in recent decisions signaled a willingness to extend the right of privacy to certain types of behavior which could very well, according to legal leading scholars, have laid the foundation to recognize gay marriage by a narrow majority of the Supreme Court.

Here is the record. Activist lawyers and their allies in the legal academy over the last decade have devised a strategy to override the public opinion that I described earlier which is, by one reckoning or another, by referendum in Missouri recently, 71 percent of the public affirmed the traditional definition of marriage, survey after survey shows the overwhelming majority of the American people support it, but there has been an effort to use the courts much in the same vein as in Roe v. Wade in 1973 to redefine the laws of all 50 States through judicial fiat.

They achieved their first success in 1999 when they convinced the Vermont Supreme Court that they should order the State legislature to legalize same sex marriage or create same sex civil unions. The legislature chose the latter despite strong public opposition. The activists won their second victory when they convinced the Massachusetts Supreme Judicial Court to force that State to give full marriage licenses to same sex couples. Even though citizens of that State opposed same sex marriage and no law had ever been passed to authorize it, same sex marriage in Massachusetts became a reality on 17 May 2004.

The activists have, Madam Speaker, literally plotted a State-by-State strategy to increase the number of judicial decisions mandating same sex marriage. The goal is to force the same sex marriage issue on the Nation piecemeal and then to demand the United States Supreme Court order the holdout States to accept and do the same. It is a fairly transparent and ingenious legal strategy. And the United States Supreme Court has provided potent ammunition for these activists when they decided the Lawrence v. Texas case of June 2003. In that case, dealing with same sex sodomy, the Supreme Court strongly signaled that a right to same sex marriage could be found in the number of the Bill of Rights, in the so-called right of privacy of the U.S. Constitution. This, Madam Speaker, is precisely the same right that the late Justice Blackmun derived the right for

an abortion in 1973 in the infamous Roe v. Wade case.

Again I say, this Supreme Court in Lawrence v. Texas in June of 2003 signaled that a right to same sex marriage could be found in the U.S. Constitution. In fact, experts as varied as Laurence Tribe of Harvard and Justice Antonin Scalia agree that the court's decision points to the end of traditional marriage laws. Let me say it again. This is something of a consensus opinion when Justice Scalia on the right and the famed author and professor Laurence Tribe of Harvard on the left agree that the Texas case lays the foundation for essentially the redefinition of traditional marriage.

Activists are attempting to build on their successes as we speak. In Vermont, Massachusetts, and in the Supreme Court in the Lawrence case, same sex couples are now challenging marriage laws in my State of Indiana, California, Florida, New Jersey, New Mexico, New York, Oregon, Washington, and West Virginia. In addition, lawsuits have been filed in Alaska and Montana to force those States to grant particular marital benefits to same sex couples. And while I support the Defense of Marriage Act strongly, according to many experts it provides a weak defense to these lawsuits. State and Federal courts are poised to strike down that law under the Constitution's equal protection and due process clauses and force recognition of same sex marriage.

The only way, therefore, Madam Speaker, to prevent this core societal decision which, as the gentleman from New Mexico said, is central to who we are as a people, it is central to that which we would bequeath to our children and grandchildren, the only way to prevent this core societal decision from being made by unelected judges is to allow the people to speak on this issue through the constitutionally mandated amendment process. This process which requires, and we will attempt to achieve it tomorrow, two-thirds of the Congress and three-fourths of the States by votes of their legislature is the most dramatic grassroots political mechanism available to let the people speak.

Let me close and yield back to my colleague with that point. We are in the people's House. Our founding documents speak of we, the people. Abraham Lincoln, standing on what would become the graveyard at Gettysburg, spoke of a Nation of the people, by the people and for the people. Yet there are those, and we will hear it on this floor tomorrow, I suspect, Madam Speaker, who will make the case that rogue, unelected judges know better than the people of the United States and that somehow what we are doing on this floor tomorrow in an amendment to protect marriage as it is traditionally defined is somehow contrary to our best traditions.

I would offer to you as I close, our best tradition is that we are a government of the people, by the people and for the people. And when it comes to that institution which is marriage, which is so central to who we are, so necessary to the vitality of our society, we must hear from the people and that is what this majority will bring with our great leadership to the floor tomorrow for consideration.

I yield back my time with gratitude to the gentleman from New Mexico and my colleagues for being a part of this very important starting conversation about the Marriage Protection Act.

Mr. PEARCE. Madam Speaker, there are a lot of questions that I am given when I bring this subject up in the district that I represent and they are fair questions and they are good questions and I think that we have a responsibility to deal with some of those questions. Many people say, aren't you just infringing on the rights of the gays and lesbians? It does not appear that we are. What appears that we are trying to do is to say that gays and lesbians have the right to choose any life-style they want but what we are going to limit is their ability to redefine what marriage is.

Marriage is not defined by the Constitution. Marriage really is not even defined in law first. Marriage was defined in nature first. It is in nature that we find that men and women come together to have children and in the process of having the children, the sexual acts that caused the children create bonds that cause the couples to stay together. Those bonds create the family that sustain and nurture and raise and defend and protect our children. This argument is not about what is right for any class of people except children. When we move the children out of the central focus, we begin to stray away from the most vital, important part of this discussion because it is through the children that we have the next generation, the generation that will work and sustain us, the generation that will produce succeeding generations.

Those countries which have already admitted same sex marriages as a right and as a law, we find that in those societies that marriage is beginning to dissipate and disappear. Some would say, so what? So what is that the main structure, the main defense mechanism, the main way that children are born, raised and put onto the path in life that they should be put on is the family. So we cannot have a so-what attitude about it. We must understand that if we choose this, that it is going to radically affect our Nation and radically affect those things in society which keep our standards the way they are which make this Nation great.

If it is the decision of the majority of the American people to do that, it is one thing; but if it is the opinion of some activist judges who wish to redefine the American culture, then I think America is speaking out right now and we have an obligation to listen to what America is saying.

I would like to recognize another one of my colleagues, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) who is always involved in issues involving the family.

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I stand tonight in strong support of the Marriage Protection Amendment, and I consider this debate among the most important of my tenure in this House. I also want to make clear up front that this amendment is about reaffirming a national definition for one of our Nation's, and the world's, most important institutions, namely, marriage. This amendment does not, and I repeat, does not interfere with the right of State legislatures to change laws for their States, nor does it deny individuals the right to make sexual choices. The right to marriage will remain the same for everyone, that is, the right to marry another individual of the opposite sex.

I find it unfortunate that we must act today on something as seemingly clear as the definition of marriage, but activist judges have forced our hand in this important matter. You see, poll after poll and vote after vote at the State level have indicated that the American public overwhelmingly supports the definition of marriage as consisting of the union of one man and one woman. Indeed, 44 States have enacted laws affirming this very definition.

Moreover, in 1996, an institution no less than this very Congress and then President Clinton enacted the Defense of Marriage Act that defines marriage for Federal Government purposes as the union of one man and one woman. Contrary to what you may have heard elsewhere, the notion that marriage is the union of a man and a woman is not controversial. However, activists in the judiciary, as evidenced by the Massachusetts Supreme Judicial Court deciding that there is no rational reason for restricting the benefits of marriage to heterosexual couples, seem bent on redefining marriage for an entire Nation in direct opposition to the wishes of the vast majority of Americans and with a flagrant disregard for the millennia-old institution of marriage that has been responsible for the successful propagation of the human race.

Since ancient days in all corners of the globe, men and women have left their own families to join together and form new families for intimate companionship and, importantly, the rearing of children.

To those opponents of this amendment who contend that marriage in this country is broken already, citing statistics that half of marriages end in divorce, I must say that I agree with you. Admittedly, our debate today does not go to the heart of the problem, but rather addresses a symptom after years of degradation of the institution of marriage in America.

Certainly it is a great tragedy when men and women divorce and children are not raised by both a mother and a father. While there are millions of men

and women in this country who bravely and lovingly raise children by themselves, social science and our everyday experiences teach us that children raised without a mother and a father experience more poverty, more welfare dependence, more substance abuse, more physical illness, higher infant mortality, more homicide, more premature and promiscuous sexuality, more early unwed pregnancy, more juvenile delinquency, more educational failure, more conduct disorders and more adult criminality.

It is also true that the future of marriage as a strong institution of America goes far beyond whether or not the Constitution is amended to reaffirm the definition of marriage as the union of one man and one woman.

□ 2030

That fact, however, does not mean that the Marriage Protection Amendment is unimportant. Rather, it is exceedingly important. For as a society, we will have no hope of strengthening the bonds of marriage without a unified national definition of marriage, a definition consistent with the understanding of marriage as a union of one man and one woman.

Mr. PEARCE. Madam Speaker, I thank the gentlewoman for her comments. They address the issue in a very sensitive and appropriate way.

We have many people who say to me also, What does it matter? Gays can love each other. Should they not be allowed to marry?

And it is a very compelling question, one that we should look at. I will tell the Members that emotions are not the basis for raising children. They are not the basis of relationships. If emotions are the basis of relationships, if love is the question, two brothers can love each other. Would we allow them to marry? But when we bring that argument up, our opponents say, no, no, we do not want to go there. But I am sorry, that is where we go if we begin to say that love, that emotions are the basis of relationships. If love is the basis, two men can love two women. Why not all four get married? One man can love five women.

If we are going to do that, if we are going to allow emotions to determine that love is fine for the same-sex marriage, what we do is we give away the legal standing for prohibiting those things which become more onerous: incestuous marriage; the polygamists; polymorphism; or, even worse, the child-adult relationships that we have been able to keep so far as a thing that should not be approved in society. But once we give in to the rationalization that the marriage relationship is only about love, not about nature, we give up all the legal arguments that would keep us from moving into each one of those successively. One might say that is ridiculous, that no one would do that. But I will tell the Members that there are websites currently suggesting each one of those forms of relationships should be legalized, standardized and to be made public. So it is a very critical question here, what we are dealing with, and I think the Nation must be involved. We must not leave it to the decisions my friends say of the United States Supreme Court. My greater fear is that it is going to be one of the State Supreme Courts that makes the decision for the rest of the Nation, and I think that we see that potential time after time.

We are joined tonight by the gentleman from Texas (Mr. SMITH), chairman of the Committee on the Judiciary's Courts, the Internet, and Intellectual Property Subcommittee. I appreciate his willingness to talk about this issue and give his insights.

Madam Speaker, I yield to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for yielding to me.

Madam Speaker, judicial activism in America has reached a crisis. Judges routinely overrule the will of the people, invent so-called rights and ignore traditional values. So far, judges have censored the Pledge of Allegiance in public schools, removed the Ten Commandments from public buildings and parks, banned the acknowledgment of God in public schools, imposed taxes, and now they have changed the definition of marriage.

Most Americans simply do not want judges to establish a new kind of marriage that is so different from the one that has served so many so well for so long. They want to protect marriage as we know it.

But what should citizens do and their elected representatives when a few judges impose their personal views on the American people? We have a choice. Either let judges decide or pass the Marriage Protection Amendment. Either we act in Congress or courts will continue to impose their definition of marriage on the country. Judges should interpret the Constitution, not promote a political agenda. The people and their representatives, not judges, should set social policy.

Madam Speaker, most Americans do not want to redefine marriage. Forty-four States already have enacted laws that provide that marriage shall consist only of the union of a man and a woman. The 44 States include 86 percent of the Nation's population.

We need to protect the right of the voters of these States to define marriage as they see it. This right is now threatened by activist judges who would overturn these States' policies. On behalf of the American people, we should vote for the Marriage Protection Amendment because it rightfully restrains judges who threaten our democracy.

We often hear opponents say that a constitutional amendment goes too far too fast. But amendment supporters were not the ones who, for example, ordered Massachusetts to legalize same-sex marriage. It was a panel of activist judges by a four-to-three vote. It is time to return this debate on society's core institution to the democratic decision-making process. Let us take this decision away from the courts and give it back to the American people where it belongs.

The constitutional amendment process is an integral part of our democratic process, requiring approval from two-thirds of each House of Congress and three-quarters of the States by votes of their State legislatures. Passing a constitutional amendment will place this debate back where it belongs, with the American people.

If we pass the marriage amendment, we will retain our understanding of marriage as the union of a husband and wife, ratified by the States. If we do not act now, the courts will redefine marriage. But it is the American people and their representatives who should determine how marriage is defined.

Madam Speaker, that is why we should support the Marriage Protection Act, as I hope all my colleagues will do tomorrow.

Mr. PEARCE. Madam Speaker, reclaiming my time, I thank the gentleman from Texas for his comments and appreciate his principled stand on so many issues.

Madam Speaker, we have to admit that marriage is universal. People ask me when I make the comment that nature has defined what marriage is first, law simply tries to capture it in language: What does it matter that nature describes what marriage is? Basically, there is a design to all things. There is an order to the universe. Marriage is universal. What the left is trying to do is to upset that order and to take order completely away because there will be no order once there are not restrictions on exactly the definition of marriage.

But beyond that, we must understand that when nature designs, any time we break a design, things just do not function as well. For instance, a car, that has a design to run on gasoline with oil in the engine. If we reverse the process and put oil in the gas tank and gasoline in the oil containment part of the vehicle, the design is not well served, and the machine simply does not work.

It is very true in nature, too. Our bodies are designed with blood to run through our veins, the heart pumping blood. But if we take the blood out and replace it with water, we find that the design simply quits working.

And it is the contention of many social scientists that marriage is one of the natural designs that simply will quit working if the design is not understood and adhered to.

So it is very critical, as we look at these things, to understand that marriage is far more than just a current-day definition. It is something where men and women have come together throughout history in all nations. All nations of different government types, tyranny, freedom, they all have one

constant, that marriage is between a man and a woman and the family is better served, children are better served, when we have a clear definition of what marriage is. And children are the issue in this debate.

I have a gentleman here tonight from Iowa who is a good friend and whose views I often wait to hear.

Madam Speaker, I yield to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman from New Mexico for be willing to come to the floor so regularly and stand up for the values that are so dear to this country, and I thank him for the opportunity to speak on this issue of marriage tonight.

I would point out that, tomorrow, we will bring the Marriage Protection Amendment to this floor, and we will debate this issue, and it will be debated intensely on both sides. There will be Members on both sides, Democrats and Republicans, who will vote for and against this amendment tomorrow. Those who vote for it will tell us that they do not believe we need to go to this drastic step in order to preserve marriage. What they are really saying when their vote goes up is they do not believe the people should have the opportunity to voice their will, their votes, within their own States in the process that is set up through ratification of our Constitution that is for a constitutional amendment.

The gentleman from Texas pointed out that the courts have overruled the will of the people. And a question I often ask is, how did we get here? What brought us to this point? We, the people of the United States, those of us who see these three different branches of government, those of us who view that they should be balanced branches of government, that it is the job of the people to establish social policy and that it is our job to reflect that here in this Congress and to promote that across this country, it is not the job of unelected, lifetime-appointed judges to direct the society that we live in, and we get into great trouble when we allow that to happen.

We have allowed it to happen for a long time, Madam Speaker, and that long time goes back, by my measure, 42 years, to 1962 when a Supreme Court case, Engel v. Vitale, was brought before the courts. And that is the famous case, Madalyn Murray O'Hair's name comes to mind, where the Supreme Court pulled prayer out of the public schools. I believe they misread our Constitution. The Constitution does not provide that there cannot be prayer in the public schools. It simply provides there cannot be an established religion. And how we got to this point of this separation between church and State being imposed upon pulling prayer out of the public schools is a complicated and convoluted legal argument that cannot be sustained by a reading of the Constitution.

A point was made in the Committee on the Judiciary the last couple of weeks, and I want to credit that to the gentleman from Indiana (Mr. HOSTETTLER), who said, when people on the other side are opposed to our amending the Constitution, saying leave it alone, do not amend it, leave it as it is, what they really mean is leave it alone and do not read it. When we read the Constitution, we have a whole different view of the document, that precious and sacred document, than we do when we read the news articles or listen to the arguments on the other side.

But in 1962, prayer was taken out of the public schools by the United States Supreme Court. Then 3 years later, 1965, came a case that we do not talk about very much. It is a case called Griswold v. Connecticut. And that was a case where the State legislature in Connecticut had passed laws that said that there would not be the selling of contraceptives in the drug stores in the streets of Connecticut. In that case, Griswold took it to the Supreme Court, and the Supreme Court found that there was a right to privacy. The first known sign of a discovered right to privacy supposedly in our Constitution, and that said that married people should have a right to go buy contraceptives and take them back to the privacy of their home and that the general assembly of Connecticut had no business sticking their nose into that privacy between two married people.

How in the world did we get from that right to privacy to where we are today? Incremental steps. The next incremental step was 1973, Roe v. Wade, where the Supreme Court found that this right to privacy was not just a right to go purchase contraceptives if they are married and bring them back to their home, but also a right to determine that that baby that was conceived would not be brought to term because the liberty of the pregnant female and the right to privacy superseded the right to life of that unborn child. An astonishing decision made by a Supreme Court to take that right to privacy and roll it into a right to abortion.

Now, I go to a couple of other cases. Stone v. Graham, 1980. 1962; 1965; 1973, Roe v. Wade; and let us leap to 1980, 7 years later, pulled the Ten Commandments out of our public schools. The gentleman from Texas (Mr. SMITH) spoke to that issue somewhat. Then, behind that came 1994, the case of Madsen v. Women's Health Center, Incorporated, and it removed the demonstration rights of people who were pro-life from demonstrating outside abortion clinics. Another right pulled away. It is okay to strike, and it is okay to demonstrate. It is just not okay to do it if it is not in a politically correct fashion, according to the courts.

Then there was a case in 1996, Romer v. Evans, where the Supreme Court overturned a constitutional amendment that was voted on with an overwhelming majority by the people of Colorado that said they will not impose special rights for certain classes of people at any level of political subdivision, and the Supreme Court said that the people of the State of Colorado had no business imposing their will on the political subdivisions.

□ 2045

That had to do with special rights for sexual orientation and gender identity. It removed the right of the people of Colorado, suspended the tenth amendment, because they found another value there that I cannot quite discern. That is 1996.

2002, Newdow v. U.S., that was the ninth circuit, the infamous ninth circuit, that pulled ''under God'' out of our Pledge of Allegiance. That case correctly did not make it to the Supreme Court. The Supreme Court ruled that the gentleman who brought the case, Mr. Newdow, did not have standing.

I think there had to be some relief there, because I have stood in the Supreme Court chambers and I think about what that would be like to reference ''under God'' in our Pledge or what it would be like for the Supreme Court to rule on a decision on whether there would be the Ten Commandments in school. I do not know how they do that.

I stand in the Supreme Court chambers and I look up and I see Moses on the wall with the tablets. Maybe it does not seem so imposing to the Supreme Court, because the Ten Commandments on the tablets are in Hebrew, but we know what they mean. That was 2002.

2003, Lawrence v. Texas, where the Supreme Court found there was a right to sodomy, a right to homosexual relations. As I read through that decision, and I read it through four times, five times, maybe six times, and my margin notes are in different colored ink and they get heavier and heavier each time I read through there, and I get more chilled by the breathtaking decision of Lawrence v. Texas, not just the simple description I have given; but in that decision it says that the people elected by the citizens of Texas to represent them in the Texas legislature have no business imposing their moral values on the people that elected them.

The Lawrence decision, a six to three decision written by one of the Justices, really said ''do not impose your moral values in any case whatsoever.'' If the Supreme Court does not approve of the values you bring to the legislative process, they might just throw it out on that basis alone. Breathtaking. It is not a constitutionally founded decision; it is a will-of-the-courts decision; it is a legislative type decision. And in fact that was 2003.

But I recall sitting in also in 2003, the date was April 19, 2003, Gratz v. Bollinger and Grutter v. Bollinger, the affirmative action cases at the University of Michigan. I went in and sat in on those two cases. For 2 hours and 30

minutes, I went to sit in the place where I could hear the most profound constitutional arguments, the United States Supreme Court. As I listened to those arguments, I heard legislative arguments.

I know what a legislative argument is. I have sat in on them for 8 years in my public life. We weigh unintended consequences. We weigh the result of a policy. But the Court's job is to weigh the constitutionality and the letter of the law and the congressional intent, not the result.

So the only constitutional argument I heard that day was from Justice Scalia, who said, ''If we rule against you and it results in one minority in your school, 100 percent minorities in your school or no minorities, what possible constitutional difference can that make?'' Thank God there is at least one Justice that asks a constitutional question. We are here with a constitutional question before this Congress tomorrow.

But the real question brought before us is under Goodridge v. Department of Public Health, Massachusetts Supreme Court, a four-to-three decision that imposed same sex marriage on the State of Massachusetts.

Now, anybody that has read Lawrence v. Texas and read the dissenting opinion that said ''if this says it does not have to do with same sex marriage, do not believe it,'' would be an exact quote from the dissenting opinion, I did not believe it before I got to that point in reading that particular case; and I do not believe today that Lawrence v. Texas does not address same sex marriage.

I believe it set the stage. I believe they knew it was setting the stage. I believe that Goodrich v. Department of Public Health in Massachusetts that imposed same sex marriage in that State was a logical follow of Lawrence v. Texas. And we have 10 or so States or more that are bringing these cases through the courts working their way to the Supreme Court, where I believe the Supreme Court is poised to find a constitutional right to same sex marriage.

If that happens, we cannot put the toothpaste back in the tube. The courts will have taken us from removing prayer from the public school in 1962, right to privacy in 1965, right to abortion in 1973, I will read the rest of these years quickly: 1962, 1965, 1973, 1980, 1994, 1996, 2002, 2003, 2003, 2003, 2003. Do you get the pattern? This is accelerating on us.

This demise of our civilization is going far faster than it did for Rome. It took 200 to 300 years for Rome. I do not think it can take two to three generations in this country.

It is time for us to pass a constitutional amendment and slow down this activism of the courts and then save marriage, the very cornerstone of civilization. And then we can get to work with the hard work of winning back our schools, our educational institutions, and also our media in this country, so that we have good solid people grounded in solid constitutional values growing up in this country and taking over these roles that we are performing here tonight.

I thank the gentleman for yielding. I appreciate the opportunity to speak before this country.

Mr. PEARCE. Madam Speaker, reclaiming my time, I thank the gentleman for his comments,

Again, I would reiterate this question is about children. To those who would ask what about the gays and lesbians who are affected, no one would choose for them the lifestyle that they have chosen. But we do contend earnestly to defend the right of the people to continue to define marriage in the traditional sense as between a man and a woman.

There are those who would say, what gives you the right to limit the gays' and lesbians' freedoms? And the response is what gives us as a society the right to choose our desires over the needs of children? Because children are the question, and children are the objective of the marriages.

There are those who say that traditional marriage is plagued with divorce and should we not fix divorce if we are so concerned about the traditional marriage?

You would have to look at other arguments in the same vein. We all drive cars, and cars have crashes. Would crashes not argue against the use of cars? No, crashes simply tell us we should design better cars, we should drive more carefully, we should act with restraint, but they do not tell us we should not drive cars.

Neither does divorce, no matter how heinous it is, and it is a deep problem in our society, but it does not argue against the traditional marriage.

The people wonder who gets harmed if we make this change. If we redefine the marriage in society, who is harmed by that? I will tell you who gets harmed: the people of this Nation, who lose the right to define marriage as the union of a husband and wife get harmed, because even now in this country there are attempts to define and to codify and to put into law hate crimes legislation which would begin to chill the discussion about values that one family would like to pass on to their kids and to their grandkids.

If courts rule that same sex marriage is a civil right, then people like you and me who believe that children need moms and dads, we will be treated like bigots and racists. Religious groups like Catholic Charities or the Salvation Army may lose their tax exemption or be denied the use of parks and other public facilities unless they endorse gay marriage.

It gets to a point where in the classroom every description of families would have to include the whole universe of families, because we have already seen that happen. We have seen that the people on the liberal left would redefine even the way that we talk to our children.

Public schools will teach young children that two men being intimate is just the same as a husband and wife being intimate. That is not something that many of us feel comfortable with, and that is not something that I think should be forced on us by an activist Supreme Court.

If that is to be the way we are to govern and that is to be the way we live, it is right and proper that we would take that discussion to the American people. That discussion should be on every street corner, not in the closed chambers of the supreme court of some State, any State, or even the Supreme Court of the United States.

The Supreme Court has made decisions before about values, and we have had to amend the Constitution to change that. The most notable example is when the Supreme Court said in the Dred Scott decision that the will of the majority cannot be used to tyrannize the minority. It is almost the same rationale that was used in Lawrence v. Texas.

The will of the majority cannot be used to tyrannize minority, the court said, and we fought a civil war over it, because the will of the majority said slaves should be free and the Supreme Court said the slaves will not be free.

Not to have learned their lesson after the Civil War was fought and after we amended the Constitution, the Supreme Court came back 100 years later in the Plessy v. Ferguson case and said that if we could not have our way and mandate slavery, we, the Supreme Court, will mandate separate but equal facilities. Again, it took our society a long time to overcome those Supreme Court decisions.

It would be much simpler and much easier if we would recognize right now that the American people should be the ones to determine this issue; and I, for one, am supporting the attempt of the gentlewoman from Colorado (Mrs. MUSGRAVE) to amend the Constitution of the United States to declare in the minds of people for once and for all that marriage is a union between a man and a woman.

I will stand and fight for any one person's right to choose their life style, but I will also oppose their attempt to redefine for all of America exactly what marriage is.

Madam Speaker, I recognize that my colleague, the gentleman from Iowa (Mr. KING), would like to address this issue again, and would yield to him.

Mr. KING of Iowa. Madam Speaker, I appreciate the opportunity to pick up on some of the things that I did not address in my earlier talk.

I think we need to go back and look a little bit at the argument that there is a civil right or a constitutional right. I believe the courts are poised to either declare full faith and credit from the Massachusetts marriage to all 50 States in the Union; and, if they do not rule on that, I think they have got also

a chance they could rule with the full faith and credit, but also the equal protection clause. Either one of those imposes same sex marriage on all the States, even though a vast majority of the States have passed marriage protection language, either in their constitutions or statutorily; and some of them have done both.

But a different way of thinking about this too is the argument is made that marriage is a civil right; therefore, you could not deny it to consenting adults.

I want to argue that marriage is not a civil right. It is not a civil right for a man and a woman, it is not a civil right for two consenting adults, and, in fact, it is not a right whatsoever. It is a privilege.

The reason I declare marriage to be a privilege is because we grant a marriage license. A license is something that gives you a permit. It is a permit to do that which is otherwise illegal.

So we grant a marriage license, or we grant a license to drive a car or to fish or hunt or whatever it might be, because we want to promote a certain kind of behavior and we want to regulate a certain kind of behavior. And certainly it is discriminatory in favor of those activities that we license.

So for the same reason, we grant a marriage license, a permit to do that which is otherwise illegal. It is not discriminatory, except that it is constructive because this cornerstone of civilization has been proven since the beginning of time to be the very element, that cornerstone of civilization through which we procreate, we pass along our religious values, our moral values, our work ethic, our very culture and civilization, all of the things that come through the marriage.

The children learn from a father and a mother. Say, for example, a little boy falls down and skins his knee, and he runs to his mom and she says, Come here, honey. I will kiss it and make it better. That is a mom's role in a case like that.

□ 2100

And the father says, oh, come on, son, you are going to have to be a man one day. You are going to have to tough this one out. That is the other message. They are not really conflicting messages; they are messages that need to come from the ideal circumstances between a man and a woman in holy matrimony.

Madam Speaker, so much of our history, so much of our culture, and so much of our civilization and our respect for our ancestors flows through marriage, and we know the things we learn there, because we revere our ancestors, we also want to be worthy of that respect from our descendants. Those values are taught through marriage, through the family, through the ideal way of raising children as a man and woman in the home, and that is the point I think is important to make, and I would be happy to conclude and yield back to the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I thank the gentleman from Iowa. A couple more questions. People ask, is it fair? What about benefits? Are gay couples, if they cannot marry, denied benefits? If medical proxies are not working, let us fix that problem. If people need health care, let us fix that problem, but let us not mess with marriage.

Marriage is about children and it is about the best institution for raising children, and that is the issue. Kids are better off with a mother and father. The issue is not whether gays can be good parents or not; no one is talking about that. We are saying that children are generally better off with a loving mother and a loving father; and that is the role, that is the method, that is the paradigm that works best.

Madam Speaker, I would like to thank the people who have helped me present this case to this body.

## IMPORTANT STRATEGIES FOR FIGHTING THE WAR ON TERROR

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. TURNER) is recognized for 60 minutes as the designee of the minority leader.

Mr. TURNER of Texas. Madam Speaker, I rise tonight to talk about what I believe to be the most difficult and the most important issue facing this Congress, a Congress that has the responsibility under the Constitution to provide for the common defense, and that problem is the threat of international terrorism.

It has been over 3 years now since the horrific attacks against our Nation occurred on September 11. Our world has changed in many respects since then. We know that we are engaged in a global war against terrorism. New security measures have been put in place at our ports, along our borders, and even along the roads leading to our Nation's capital. We know now that the circumstances in Arab and Muslim countries on the other side of the globe can affect the safety and security of all Americans right here at home.

With our national elections less than 5 weeks away, the American people are asking whether we are truly winning this war against our terrorist enemies. They want to know whether this government is taking the steps necessary to ensure that we are as safe as we need to be.

The members of the Select Committee on Homeland Security have been studying this issue closely for almost 2 years. We have visited our ports and our borders. We have heard testimony from hundreds of government officials and expert witnesses, and we have met with law enforcement and security professionals in our congressional districts. My colleagues and I are here tonight to say that, no, we are not as safe as we need to be. We say this reluctantly and regretfully, but it is our constitutional duty to be honest with our constituents and to tell the Nation how it really is.

Despite the rhetoric that we hear so often from this administration, the truth is that our government has not taken the steps necessary to provide genuine security from the threat of terrorism, and whether or not we are winning the war on terror has yet to be determined.

Indeed, 2 months ago, the 9/11 Commission, a bipartisan group appointed by this Congress in very important legislation, they drew the same conclusion that we draw tonight. That bipartisan report identified severe defects in the administration's policies to counteract terrorism, many of which were well-known years ago, but have not been adequately addressed. Indeed, the bipartisan 9/11 Commission Report and its recommendations are an indictment of this administration's efforts over the past 3 years to secure the homeland and to defeat our terrorist enemies.

The 9/11 Commission concluded, as we did in our report called ''Winning the War on Terror,'' that we must engage on three fronts simultaneously. First, we need a more aggressive strategy to attack the terrorists directly by using our military and our other national security agencies wisely and cutting off the terrorists' source of funds. Such an aggressive strategy should ensure that we strengthen our intelligence capabilities to penetrate terrorist organizations and ensure that we translate and analyze all of the intelligence information that we collect in real-time.

Yesterday, the New York Times revealed in an article that the Justice Department's own Inspector General has determined that nearly a quarter of all ongoing FBI counterterrorism and counterintelligence wiretaps are not being monitored and that nearly 120,000 hours of wiretap recordings from terrorist investigations since September 11 have not even been translated.

This is unacceptable. This is the same problem that we had before 9/11. It was one of the key reasons that 9/11 occurred. If we are serious in our efforts to attack the terrorists, we must take full advantage of the information that is collected by our intelligence agencies. And to learn that 3 years after 9/11, our government has yet to get itself in a position to be able to translate the intelligence that we are collecting, to be able to have the linguists available to make those translations occur rapidly is totally unacceptable.

Additionally, we need to increase our special forces in our military to more aggressively attack our terrorist enemies. We must create greater numbers of small and light forces that have proved so successful in hunting down terrorist cells, and we must dry up the sources of funds for the terrorists and for their organizations. We must lead an effort to establish international financial standards to halt money laundering and to help other countries

crack down on individuals and organizations who provide money to terrorist groups.

One may rightfully ask, why has this administration not done these things some 3 years after 9/11? The gap between the rhetoric on protecting the homeland and the reality of protecting the homeland is indeed very great.

In addition to attacking the terrorists directly, we need to protect our homeland by constructing and strengthening the layers of protective measures overseas, at our borders, at our airports, our seaports, and our critical infrastructures like the nuclear and chemical plants that are targeted by our terrorist enemies.

As an example, we must commit the necessary resources and take constructive steps with our allies to ensure that our dangerous nuclear and radiological materials are safe and secure overseas and do not threaten us here at home. We must ensure that we install the radiation portal detectors at our ports to ensure that a weapon of mass destruction cannot be shipped into our country on an 18-wheeler or in a cargo container coming off a ship at one of our seaports.

It is unacceptable that 3 years after 9/11 we still have not installed sufficient radiation portal detectors to know that this country is safe from our terrorist enemies bringing a nuclear bomb or a radiological device into our country. We must move much faster to protect our borders, to protect our ports, to secure our airports, our airplanes, and improve the capabilities of our Nation's first responders; and we must ensure that we can protect our citizens from the threat of bioterrorism, one of the most serious threats that we face today and increasingly will face in the years ahead.

As we aggressively fight our terrorist enemies, as we work to improve our homeland security, we must also engage in the third prong of making America safe as recommended by the 9/11 Commission. We must create a political, a social, and an economic strategy for this country to engage the Arab and Muslim nations to prevent the rise of future terrorists. Many observers who have looked closely at the war on terror acknowledge very freely that we cannot win the war on terror with military power alone. It will take all the tools in our national arsenal to defeat al Qaeda and our terrorist enemies.

It is clear that we cannot coexist with our terrorist enemies. We cannot bridge over our differences with al Qaeda, but we must be aware of the nature of the current ideological struggle that is going on and is very much a part of the war on terror. We must know our enemies, we must understand what motivates them, and then we must support initiatives to rob them of that support.

To prevent the rise of future terrorists, we must first pursue policies that promote and support the voices of moderation in the Middle East and offer an alternative vision of hope for the millions of people, particularly young people, who today are appealed to by the message of bin Laden and al Qaeda.

Secondly, we must promote and support democratic institutions and practices worldwide, making it possible for democracy to rise in those places in the world where it does not currently exist. We must have the wisdom to recognize that democracy cannot be forced upon others; but it must be the result of people willingly, freely choosing liberty for themselves. We must launch an economic development partnership in the Arab and Muslim world that is in the spirit of the Marshall Plan that followed the Second World War. I would call this effort a renaissance partnership, for it would lead to a rebirth of prosperity and a new spirit of openness and tolerance in the Middle East. People without hope, people without the chance for a better way of life, they are the ones who respond to the ideology and to the message of the terrorists. We can change the world, but we must do so by engaging the world, by uniting with our allies in the rich Arab States to improve the conditions of the Muslim and Arab world.

All three of these tasks, going after the terrorists more aggressively, securing the homeland better than we are doing today, and preventing the rise of future terrorists, must be the principal focus of our national efforts to win the war on terror. Unfortunately, we do not have a comprehensive strategy in place today to deal with these elements in the war on terror, and that is why today we are not as safe as we need to be.

Tonight I will be joined by some of my colleagues on the Select Committee on Homeland Security and other Members who have played a leading role in homeland security issues in this House. We will discuss what we need to do to fight a smarter, a stronger, and a more effective war against terrorism. We will talk about the security gaps facing our Nation and our ideas for closing them.

We know that our terrorist enemies are not waiting. They continue to plot. They continue to scheme to attack America. We must have a sense of urgency, for the time to act is now; and we cannot wait any longer.

□ 2115

I am pleased to yield to the distinguished delegate from the Virgin Islands (Mrs. CHRISTENSEN), who has been a leader on the Select Committee on Homeland Security on the issues of bioterrorism and public health preparedness. Her background in the medical field has enabled her to have unique insights into what we need to be doing as a Nation to be better prepared to deal with the threats it faces.

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman from Texas (Mr. TURNER) for yielding, and I want to thank him for his leadership and for bringing us here this evening. I am pleased to join him and other Members of our committee to call attention to the glaring deficiencies in homeland security, which continue to exist now more than 3 years after the attacks of 9/11, and the failures of the administration in this regard.

I do not call attention to them to cause alarm but to continue to put pressure on the administration and the Department to address what every commission or task force has told us even before that fateful day, and what polls show is the primary concern of Americans, our safety and the safety of our children, our protection from terrorism.

I am going to focus on the area of bioterrorism, and we can all agree that the threat of biological attack is a very real one.

Indeed, we have seen biologic agents used in this very building against our colleagues and those who work here. We also witnessed the differences in public health response here and in our neighboring communities, especially communities of color where several people died.

At committee meeting after committee meeting, we called the attention of this administration and the department to the fact that our public health system is inadequate in many areas; that the disparities in health care reflect this; and that many, especially in the private sector of medicine, are not trained or prepared to respond adequately in the case of an attack. Yet we still lag behind in these critical areas.

First of all, the health sector is not yet as fully incorporated as it should be in all areas of planning, and the development of systems that are important to the protection of our citizens.

Just this morning, we heard from Dr. Joseph Barbera of the George Washington University Institute for Crisis, Disaster and Risk Management, at a subcommittee hearing on the National Incident Management System, the very core of our response.

In his statement, the fact that he saw it necessary to stress to us that ''medical care necessary for a mass casualty event must be recognized as a public safety function and therefore as a governmental responsibility that is equal in importance to fire suppression, emergency medical services, public works and law enforcement,'' the fact that he had to tell us, that speaks volumes about where this expert sees our state of readiness in this critical area. It is not where it should be.

I can tell my colleagues that in too many instances, health, both public and private, are not included. This while 62 percent of emergency rooms are over capacity and public health laboratories are reportedly operating at an average of 75 percent above capacity.

The funding that this administration has supplied to address these deficiencies is far below the estimated $10 billion that is reportedly needed to

bring just the public health sector to where it needs to be. We have not begun to scratch the surface.

Another aspect of bioterrorism preparedness which this administration and the Department has failed to adequately address is the need to develop the capacity to rapidly diagnose and develop treatments for any agents that might be used.

In May, the gentleman from Texas (Mr. TURNER) and I introduced the Rapid Cures Act which would promote technological advancements to reduce the time frame from several years to a few months at the most for the development of new medical countermeasures to treat or prevent disease caused by not only agents of bioterrorism but disease agents or toxins that have the potential to plague our communities today.

SARS has shown us that we cannot know or predict what will be used. In that respect, Project Bioshield is not helpful. This bill gets to the heart of the matter and develops capacity that is more of the all-hazards approach that Governor Gilmore and many others have so strongly recommended.

We need to have protection and treatment against dangerous biological agents that might be used in an attack quickly, not in the 10 or 15 years it is now estimated to take. That bill has not even had a hearing yet.

Lastly, the administration has pretty much ignored the role of the public. They have not been brought into the discussion or development of the systems to the extent they need to be.

In every town meeting that I have had, I have heard critiques of what has been promulgated, and I have been asked how they can participate in developing the preparedness and the response. We ignore them at the potential peril of all of us.

One of the most important things that is needed in a disaster or any emergency is for people to follow instructions. If they do not, they put themselves and all of us at risk.

Just in the last few weeks, we saw people who clearly knew what their instructions were out in the ocean or not evacuating their homes, and that was in a relatively familiar disaster.

To date, most of the public are unclear about what they are to do in the case of the different forms of possible terrorism attacks.

On September 14, the New York Academy of Medicine's Center for the Advancement of Collaborative Strategies in Health along with the Joint Center for Economic and Political Study released a groundbreaking report entitled Redefining Readiness: Terrorism Planning through the Eyes of the Public.

The New York Academy of Sciences found that only two-fifths of the American people would follow instructions to get vaccinated in the event of a smallpox outbreak. In addition, it stated that only three-fifths of the American people would shelter in place for as long as told in a dirty bomb explosion.

One reason for the lack of cooperation is that many people would be also worried about something other than what the planners are trying to protect them from. Three-fifths of the American people would have serious worries about the smallpox vaccine itself, and that is twice as many people as would be seriously worried about getting smallpox in the outbreak.

What we find in the case of the public is that the administration and the Department, as they have done too often in the case of first responders, have assumed that they knew what was best, or what was needed, instead of letting the people, in this case, speak for themselves, participate in the process of developing the strategies and the plan. On something this important, there must be a methodology in place to do this. Three years later, there is none.

First responders, all of them must be fully engaged in the process and so must the public.

This administration has spent too much time assembling a bureaucracy, one that does not even reflect the diversity of the country which it protects and too little time on putting the kinds of protections in place to be able to begin to claim the security high ground.

Two weeks ago, senators released a report card on this administration's progress in homeland security. While many other areas got a C to an F, bioterrorism actually got a B. The grade has to be much lower than that. Too much remains unaddressed. I would give them at best a C minus, and below average is not good enough for protecting us and our families. They have a lot more that needs to be done to ensure that we are as protected as we can be from a bioterrorism attack.

We know that there is no way to be 100 percent safe, but the White House has fought us, the Democrats particularly, on almost every step of the way to get to even where we are today. It has not provided the kind of leadership that is required, and it has certainly not lived up to its promises.

As a result, today, we are not as safe as we ought to be 3 years after that horrific wake-up call.

I thank the gentleman from Texas (Mr. TURNER) for yielding to me and giving me the opportunity to be included in this special order. I thank him again for his leadership on the committee.

Mr. TURNER of Texas. Mr. Speaker, I thank the gentlewoman very much. I thank her again for her leadership on this issue.

Next, I would like to yield to the gentlewoman from New York (Mrs. LOWEY), another member of the House Select Committee on Homeland Security, a lady who has shown not only leadership on our committee on behalf of homeland security but great leadership on the House Committee on Appropriations. She has also worked vigorously to protect her State from the threat of terrorism, the great State of New York. So it is a pleasure to yield to her.

Mrs. LOWEY. Madam Speaker, I want to thank my good friend from Texas for his leadership on this committee. He worked so hard and helped us put together a really outstanding plan. It is unfortunate that because of various interactivities of the Republican leadership that we have not been able to take this plan to the finish line, but I personally want to thank him for his important contributions in helping us work towards a plan that would help keep America safe. So I thank him so very much for his important leadership.

Mr. Speaker, it really amazes me that more than 3 years after September 11, we are still talking about gaps in our Nation's strategy to protect against and prepare for another terrorist attack.

Several of my colleagues from the Select Committee on Homeland Security have already highlighted ways in which we can improve port and rail security; how can we better prepare public health communities to deal with a biological attack; and how to protect and secure our borders. We all agree that more needs to be done and must be done and that Congress should not go home without addressing each of these critical issues.

In my judgment, this administration and this Congress need to beef up their efforts to provide for first responders. Local police, firefighters, EMS technicians need information. They need training. They need the life-saving equipment necessary to protect them from the dangers they face every day.

I was appalled when I read in yesterday's New York Times that more than 120,000 hours of potentially valuable terrorism-related recordings had not yet been translated by linguists at the FBI. This is outrageous and particularly dangerous, especially for the residents of my home State of New York, which is referenced in intelligence reports time and time again.

How can we expect first responders to be able to adequately prepare for an attack when the Federal Government does not even have the capability to analyze and share with them the intelligence information it has collected? We can and we must do better.

As I travel throughout my district and speak with first responders, like Chief John Kapica from the town of Greenburgh, Chief Robert Breen from the town of New Castle, Chief Robert D'Angelo from the town of North Castle and all the other chiefs with whom I have been working closely, they all tell me that implementing an interoperable communications system is one of their highest priorities and that they have not received nearly enough guidance, support or resources to achieve this goal.

The 9/11 Commission report confirms that, despite the heroic efforts and experience of first responders, communications deficiency and lack of interoperable systems among police, firefighters and other rescue agencies hindered their response at the World Trade Center.

Eight years ago, let me repeat, 8 years ago, the final report of the Federal Public Safety Wireless Advisory Committee concluded that, ''unless immediate measures are taken to promote interoperability, public safety agencies will not be able to adequately discharge their obligation to protect life and property in a safe, efficient and cost-effective manner.''

Now, forgive me if I sound impatient or even extraordinarily angry, but I am. With nearly every major study and report on homeland security concluding that lack of interoperability remains one of the most serious issues facing first responders in this country, I just simply cannot understand why this administration has done little more than pay lip service to the seriousness of this issue.

With estimates for implementing a nationwide interoperable communications infrastructure ranging anywhere from $7 billion to $18 billion, local governments and first-responder agencies cannot be expected to pick up the tab without significant help from the Federal Government.

Some of my colleagues may argue that current homeland security grants can be used to upgrade communications systems. While this may be true, the costs are so enormous, there simply is not enough money to go around. In my judgment, we are forcing our communities to make impossible decisions on how to use these funds.

□ 2130

That is why I joined with my colleague, the gentleman from Texas (Mr. TURNER), to introduce the CONNECT First Responders Act. This legislation establishes a Federal interoperability office and creates a new $5 billion DHS grant program dedicated to helping States and localities achieve communications interoperability.

I understand that Secretary Tom Ridge recently announced the creation of an Office of Interoperability and Compatibility, with similar goals to the office that we propose in the legislation. I am pleased that the Department has taken this important step, and I am glad that our legislation may have encouraged those efforts.

We have learned the hard way that, at best, gaps in communications hamper rescue efforts; and at worst, they can lead to the loss of life for emergency personnel and victims. Our communities should not have to wait 2 years or 5 years from now until another disaster strikes to get the help they need to close this glaring and unnecessary gap in our Nation's security. Our first responders served us with honor and distinction on September 11 and every day before and since, and they deserve better.

In closing, Madam Speaker, I want to once again thank my good colleague, the gentleman from Texas (Mr. TURNER), and my other colleagues on the committee, as well as the staff for all their work in putting together a plan that really can win the war on terror.

We are, in America, at risk. As the mother of three and the grandmother of six, I worry every day about the future of my community and about the future of this great country of ours. We are talking about a complete overhaul of our intelligence system. Yes, they may be part of it, but there are specific actions that we can take right now. Shame on us if we do not move forward on the recommendations that can be implemented as we speak.

Madam Speaker, I thank the gentleman from Texas again for his leadership.

Mr. TURNER of Texas. Madam Speaker, I thank the gentlewoman from New York for her comments and her leadership.

Next, Madam Speaker, I wish to yield the floor to the gentleman from Rhode Island (Mr. LANGEVIN), a distinguished Member of this House who has worked diligently on our committee, who not only is a good legislator but a fine gentleman and is very committed to implementing the third prong of the war on terror as recommended by the 9/11 Commission, which is preventing the rise of future terrorism.

Mr. LANGEVIN. Madam Speaker, I thank my friends and colleagues, the gentleman from Texas (Mr. TURNER) and the gentleman from Michigan (Mr. STUPAK), for leading this Special Order. I especially want to recognize the work of the gentleman from Texas as our ranking member on the Select Committee on Homeland Security. Your colleagues and all Americans owe you a great debt of gratitude for your consistent valiant efforts to keep these critical issues at the forefront of the national debate.

Madam Speaker, there is no question about the importance of our efforts here at home to improve domestic security and preparedness, but I want to spend my time this evening addressing a topic that I think deserves equal attention, mainly the need for a full-scale global effort to enhance the image of America in the world and prevent the rise in recruitment of future terrorists. I think we often overlook this aspect of Homeland Security, perhaps because it is not as tangible, or the path is not as clear-cut, or perhaps because success is harder to measure. But we do so at our own peril and at the peril of countless future generations.

Dr. Joe Nye, the former dean of the Kennedy School of Government at Harvard and former Assistant Secretary of Defense for International Security Affairs, has talked about the need to supplement our military might with soft power, efforts to win the world's hearts and minds with our values and culture. Successfully exercising this type of power requires that we pursue many fronts, including international diplomacy, democracy building, cultural exchanges, economic development, educational initiatives, and communication about our values and our ideals.

Now, most people do not give this strategy the attention it deserves, but I am pleased that the 9/11 Commission report recognized that soft power will be a critical component in our long-term efforts to stop the spread of Islamist terrorism.

It is easy to say that we were attacked on September 11 because the terrorists despise freedom and hate the American way of life, but the truth is much more complicated, and we do ourselves a disservice if we accept the simple answer.

To win the ideological battle being waged in the world today, we have to offer an alternative to the hopelessness and despair that the likes of Osama bin Laden and al Qaeda prey upon. Madam Speaker, there are millions of young people in the Islamic world who are hungry for hope and opportunity, and it is in our interest to show them that hope lies in freedom, liberty, and democracy, not in extremism and hate.

By pursuing policies abroad that promote voices of moderation, we can isolate the extremists and present a better vision of the future. By promoting democratic institutions, we can show that there is a better way, and we can offer a choice. By supporting economic development partnerships in the Arab world, we can help these nations become prosperous and self-sufficient. And by spearheading an international effort to offer educational alternatives to children in the Muslim world, we can provide the next generation with the tools to build a better future. These efforts will require significant resources, but the payoff will be immeasurable.

Perhaps most importantly, we must show the world what America and Americans truly stand for: tolerance, opportunity, hope, and freedom. And we must do it quickly, before an inaccurate image is indelibly emblazoned on the minds of millions. As the 9/11 Commission so eloquently put it, we need to defend our ideals abroad vigorously. If the U.S. does not act aggressively to define itself in the Islamic world, the extremists will gladly do the job for us.

Madam Speaker, in closing, let me again thank our ranking member, the gentleman from Texas (Mr. TURNER), and the gentleman from Michigan (Mr. STUPAK) for bringing us to the floor this evening to discuss these critical issues. September 11 should have made clear to all of us that we do not have the luxury of time when it comes to addressing our security at home and abroad. I urge the President and his administration to exercise strong leadership and provide the necessary resources to ensure the safety of our citizens and our Nation.

Mr. TURNER of Texas. Madam Speaker, next I would like to yield to the gentleman from Michigan (Mr. STUPAK), a gentleman who is most active on behalf of the first responders across our country or those on the front lines in the war on terror. He is a gentleman who serves on our Democratic Task Force on Homeland Security, a gentleman who is most respected by all of his colleagues in this House, and who has served here for many years with distinction.

Mr. STUPAK. Madam Speaker, I thank the gentleman from Texas for his efforts and for leading our intelligence task force in all the work we have been doing here under the gentleman's leadership on this issue, along with the gentlewoman from New York (Mrs. LOWEY), the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the gentleman from Rhode Island (Mr. LANGEVIN), and the gentlewoman from Texas (Ms. JACKSON-LEE), who we will hear from next.

Having been in law enforcement for many years, and having founded the Congressional Law Enforcement Caucus here, we are now looking at the third anniversary of September 11, and the question on many Americans' minds is: Are we safer? Is America safer today than we were on 9/11? The current administration says we are safer. The Republican leadership in Congress says we are safer. But just because they say we are safer, does not make it so.

For instance, when we are talking about our northern border, I come from Michigan and I border Canada. President Bush said on January 25, 2002, ''We are analyzing every aspect of the border and making sure that the effort is seamless, the communication is real, that the law enforcement is strong.'' He also said on February 2, one week later, ''We are focusing on the heroic efforts of those first-time responders. That's why we want to spend money to make sure the equipment is there, strategies are there, communications are there to make sure that you have whatever it takes to respond.''

The Bush administration has mastered the rhetoric. They talk a great game about homeland security, but the numbers reveal a stark reality. Here are a few points: we are 2,000 border patrol officers short along the northern border with Canada, and the President's budget request fails to include additional funding to make these border patrol officers a reality.

Only 5 percent of passenger planes are screened for explosives, according to the GAO. And the President wants to cut the number of air marshals by 20 percent this year.

Our maritime security efforts are severely understaffed and underfunded, allowing us to screen only 5 percent of the nearly 8 million seaborne containers entering the U.S. each year, and $7.5 billion is needed over the next 10 years in order to secure our ports and waterways. The Bush administration has distributed a mere $441 million for this purpose.

This year's budget is the first time the Bush administration has ever asked for any port security grant money. Without the Bush administration's support, Congress has provided only $587 million for port security since 2001. That is less than 10 percent of the money we need to do the job.

The President has cut overall funding for adequate protective gear and training for first responders. And this year is no different. He proposed more than a 20 percent cut in first responder training and State grants for training, equipment, and other homeland security needs. More than 40 percent of our Nation's firefighters have not received training for responding to nuclear, biological, or radiological attack.

Finally, national reports on the 9/11 emergency response found that the inability of our first responders from different agencies to talk to one another was a key factor in the deaths of at least 121 New York firefighters at the World Trade Center.

The independent 9/11 Commission report said ''funding interoperable communications should be a Federal priority.'' Here is what they said, the 9/11 report says: ''The inability to communicate was a critical element of the World Trade Center, Pentagon, and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the State, local, and Federal levels remain an important problem. Federal funding for such interagency,'' interoperability as we call it, ''units should be given high priority.''

Here is what the President said: ''It is important that we understand in the first minutes and hours after attack. That is the most hopeful time to save life, and that is why we are focusing on the heroic efforts of those first-time responders. That is why we want to spend money to make sure equipment is there, strategies are there, communications are there to make sure you have whatever you need to respond.''

Strong language from the 9/11 Commission; strong language from the President. The reality is what it costs to get interoperability going in this country 3 years later is $18 billion. What has President Bush requested since 2003? He has requested $100 million.

The President even has zeroed out these accounts in the Department of Homeland Security budget over the past 2 years. At the rate we are going, according to the Department of Homeland Security officials, it will be another 20 years before our Nation's first responders are interoperable, where they can talk to each other, communicate with each other. Madam Speaker, we do not have 20 years to wait.

Earlier this year, on this floor, I asked how much in the formula grants provided for State homeland security has gone to interoperability. The Department of Homeland Security could not tell me. They committed to let Congress know the answer soon. We have recently found out that it is going to be about another year before we can even get an answer as to where the money has been spent, if it has been spent at all on interoperability. That does not say much about the oversight or planning in the Department of Homeland Security, and about where the billions of dollars of State grant formula money is going.

Madam Speaker, the problems I have outlined are occurring because of a lack of commitment on this administration to homeland security. Even the Department of Homeland Security still has not hired some 30 percent of the needed staff to properly run the agency. The homeland security challenges we face, whether it is border, airline, rail, or port security all require the same approach: real solutions instead of rhetoric, real resources and not political pronouncements.

Day after day we are told our Nation is better prepared against a terrorist attack than it was 3 years ago; but when only 4,000 Americans guard a border over 4,000 miles long, I cannot agree our Nation's northern border is secure. When our ports are not secured from the entry of a chemical, biological, or nuclear attack, I cannot take the word of anyone when they tell me my family and constituents are well protected.

□ 2145

And there is no comfort in the fact that our first responders are no closer now than they were after 9/11 to be able to talk to each other in times of natural disaster or terrorist attack. So how safe are we? The administration points to the toppling of Saddam Hussein. That does not make it. How does that make us safer when he was not an imminent threat, when there were no weapons of mass destruction, and we have diverted so much of our military and intelligence operations to Iraq. Osama bin Laden is still out there. Iraq is now a haven for new terrorist groups. Our country internationally is hated more than ever. We have alienated our allies, so exactly, how are we safer?

In the meantime, the current administration and the Republican Congress refuse to give our local, State and Federal agencies what they need to protect our borders and our communities. We will not even give them the equipment to talk to each other. On these issues, sure the present administration has mastered the rhetoric, but when looking at facts, we are dangerously behind in securing our borders to help prevent another attack or be ready when one comes.

As head of the Congressional Law Enforcement Caucus, we are going to have a hearing next week on intra operability. There are technologies which

could be implemented today where police officers, State, local, and Federal, could talk to each other because of software developed by some of these companies. It is there. We should not have to wait more than 3 years after 9/11 for something as simple as allowing people to talk to each other. We hope we do not have another terrorist attack, but if we do, maybe we can tell those brave first responders, say, with the second building at the World Trade Center, the building is about ready to come down, get out. We could have saved 120 lives if we had the ability to communicate. Having been involved with law enforcement for over 30 years, it is time to look at reality. This administration is not doing the job. We are not safer at home than we were before, at, during or after 9/11.

Madam Speaker, I thank the gentleman from Texas (Mr. TURNER) for heading up our homeland security task force in our committee, and I look forward to working together in the future. Maybe together we can convince this Congress and the American people something as simple as first responders being able to talk to each other would save so many lives if we only had a commitment. I thank the gentleman for his leadership.

Mr. TURNER of Texas. Madam Speaker, I thank the gentleman from Michigan (Mr. STUPAK) for his leadership and for his conviction.

I think many of us are dismayed by the lack of preparedness 3 years after 9/11 at a time when our government tells us every day that we are faced with another terrorist threat, even estimating that we may be attacked between now and the election or between now and the end of the year. These are deadly, serious matters. I thank the gentleman from Michigan (Mr. STUPAK) for his leadership and for his hard work on behalf of first responders and on behalf of the security of our country.

Madam Speaker, I am pleased to yield the floor to my friend, my fellow Texan, fellow member of the Committee on Homeland Security, from the great city of Houston, and I have seen the gentlewoman work on behalf of first responders in her great city. I have seen her talk to the many citizens who gather at her town meetings to discuss their concerns about security. I have seen her visit the port of Houston and the FBI office in Houston to talk about security. I know of her dedication and leadership, and it is a pleasure to yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished ranking member for gathering us today. In fact, let me add my accolades for the extensive work, the serious work that has been the defining track record of the gentleman's leadership as the ranking member of the Committee on Homeland Security, and certainly, it has been, as the staff you have guided, as you have guided us as members of that committee.

Madam Speaker, there could not be more appropriate timing for this Special Order to speak to our colleagues, and certainly to bring attention to this very serious issue to the American people because, as the gentleman knows, many of us spent a good part of the day marking up legislation that pretends to be the recommendations of the 9/11 Commission.

I think that if the wisdom of the gentleman's staff and leadership could have been exercised in the process, we would have had a full, comprehensive legislative initiative that would have addressed the concerns of the 9/11 Commission, the 9/11 families, and also put together a fair package that would have responded to some of the needs that have been addressed. I thank the gentleman from Texas (Mr. TURNER), and I would like to start by referring first of all to the document that was prepared, Transforming the Southern Border, Providing Security and Prosperity in the Post-9/11 World, done by the staff, mentioning the gentleman's leadership and that of the committee.

I would like to read directly out of it because this sets the tone for the remarks that I would like to make on the southern border, and I appreciate joining the gentleman from Rhode Island (Mr. LANGEVIN) and the gentlewoman from New York (Mrs. LOWEY) and the gentlewoman from the Virgin Islands (Ms. CHRISTENSEN) to talk about all of the issues, and the gentleman from Michigan (Mr. STUPAK) just mentioned the northern border, and I come to focus on the southern border, but I do so with the point that we have friends to the south. Mexico is a friend. Many Central American states are friends. South American states, our neighbors, are friends, and we speak about security in the context of friendship because I actually believe if we are going to be secure, it must be a collaborative effort.

Let me cite remarks on page 23: Infrastructure at the southern border ports of entry cannot effectively handle hundreds of millions of inspections annually. In addition, the southern border's infrastructure cannot support the implementation of new border security programs without harming the economies of border communities. There is a need to balance the competing tension between screening people and vehicles for terrorist weapons, contraband, smuggled immigrants and other prohibited items with the need to ensure an efficient flow of commerce.

Substantial investment in border infrastructure is needed to ensure national security while sustaining economic prosperity caused by increased cross-border trade over the last 10 years.

That is what we have been saying. The reason why these issues are so important is, we have not been able to balance the needs that are so very important, between free trade opportunities and the idea of security. There are 509 official ports of entry in the United States, including land, airports and seaports. Of these, 166 are land ports of entry, 43 of which are located on the southern border. These southern border ports are equipped with 86 pedestrian lanes, 216 passenger vehicle lanes and 70 cargo lanes. These ports of entry are generally large facilities with high volumes of vehicular and commercial traffic.

This lays out just a photographic story of the kinds of challenges we have at the length of the border, the kinds of challenges we have at the border, and what we need of course is to have the skilled technocrats and law enforcement that the U.S. Customs and Border Patrol agents allow us to do. It is important to recognize in balancing these issues that we must do something. What have we done, in the committee that we are members of, we have done not as much as we should. Homeland security will not work if local communities are not consulted on border security policies, their cooperation is not sought, or if implementation of border security programs is not coordinated. Homeland security will not work if we are force-feeding border security policies as opposed to collaborating with the community.

I joined the gentleman from Texas (Mr. TURNER) along with the gentleman from Texas (Mr. ORTIZ) to look at border control issues, and that was one of the main points addressed. That is to work with those local officials who live right on the border and let them tell us the kinds of concerns that they have. One was not only dealing with the lack of security measures there, in terms of the number of border patrol agents, but we also found out that there really is a need for changing policies and laws that allow some of those who have been detained to simply walk away because we do not have the legal procedures to hold them.

I want to make sure that all of the oversight issues are taken care of, such as making sure that there is judicial process; for these detainees to go through that process; making sure there are lawyers there to help with those processes and see that they are fair. But at the same time, we cannot have a secure border if we are allowing individuals to simply walk away because there is no place for them to be held. So more detainee facilities need to be there, adequately equipped, and the border patrol agents need to be well-trained.

The bottom line is that we must secure the borders by having the resources placed appropriately there. We also cannot ignore President Vicente Fox. Just 2 years ago, President Bush spoke about immigration reform and has done nothing to ensure that happening. That allows President Fox to talk about having the borders in the manner that he wants them in, and that certainly does not match the needs of this Nation. We must have collaboration, but we must have a fixed understanding of how we can continue

to have cooperation but not have the kind of systems that other nations want us to have.

First, international cooperation is critical, as I indicated, to an effective border security, and that means working with President Fox and Mexico to make sure what we have works for all of us. We must work with our neighbors to the north and south. Many of the border solutions require the cooperation by neighbors to effectively implement. Second, we must ensure that security at the border is delivered in a manner that enhances and enforces our priorities. The foundations on which our security programs are built, how they are implemented and how the borders are staffed, all of these factors must be taken into account, along with the security and economic interests of those living in the border region.

We have U.S. customs. As I watched them go through the many ports of entry, not enough staff. Technology, not enough technology at the borders. We have just been able to secure the opportunities for children to be detained in other facilities, but again, large numbers of unaccompanied children coming into the United States, no real resources to handle them. So we are finding ourselves caught between what is a rock and a hard place.

We need, again, as I have mentioned over and over again, additional technology. We need to have the kind of ability to survey the various trucks that are coming in, and so we need to be able to use the new technology to be able to survey trucks without actually going into the trucks. We have seen that kind of technology at our various seaports.

Mr. Speaker, we are talking about doing something. That is what this Special Order has been. We are talking about the great needs of infrastructure. Let me also suggest that I hope this Special Order will argue for the continuation of the Committee on Homeland Security in the next Congress. The reason why we bring these matters to the attention of our colleagues is because we have heard over and over again from Secretary Ridge that he wants a focused authorizing body where he can address the concerns of homeland security in a fair and orderly way.

We have spoken about the ideas of first responders. We have talked about the need of medicine and emergency response, and the idea of dealing with the needs that will occur if there is a terrorist attack, and we have talked about intraoperability and then the question of border security. None of these issues have been fully addressed in the select committee because we have either not had the time or wherewithal by the majority to follow through. It is crucial that this committee continues, but it is more crucial that we do things, and the way that we must do things to adequately ensure the security of this country is we must do it in a very bipartisan manner.

□ 2200

The number of legislative initiatives that the ranking member has helped us forge over the 2 years of the existence of this committee, I would hope that these items will find a place in the legislative history of this Congress. I hope they will be passed. I certainly hope the Secure Borders Act, which my colleague, Ranking Member Turner, introduced last week articulates a consensus approach to border security. I hope by some miracle that we might even pass it if not at the end of this session, in the lame duck that we are more than likely to have.

The idea is, Madam Speaker, that security is not a lonely task. It is a task that requires us to work together in an honest and open dialogue. It requires us to pay attention to the work that has already been done. Seven to 12 million illegal aliens enter into the United States. We can do this. We can make a difference. We can do this by passing border security legislation. We can do this by working with the Select Committee on Homeland Security.

My final point would be, we can do this recognizing we need complete immigration reform such that we deal with those illegal documents that are already here, by providing them earned access to legalization and family reunification. We can do that in a parallel track. I would only say, Madam Speaker, the question is why? Why have we not done this? Why have we not been able after the 9/11 tragedy to come together around concrete, effective, important legislative initiatives as offered by the ranking member and the Democrats on the Select Committee on Homeland Security. The question is why? The response should be if not now, then when? When are we going to address America's security needs? I hope that we will do it soon. I thank the distinguished gentleman for his time and effort.

SPECIAL ORDERS—BORDER SECURITY—MS. SHEILA JACKSON LEE

INTRODUCTION

As a Representative from Texas—a border State—I am deeply concerned about the state of homeland security at our land borders. My constituents—the good people of Texas—and those in border States across America—understand better than anyone in Washington what our unique challenges are along the land borders.

Living in isolation has never been an option for us. We all know the cost of shutting down that border—political, economic, social and cultural. We are all united in wanting to keep our borders working—to make sure that legitimate travelers and cargo are not held up but that we do not let in those who would harm us.

When there is a threat to our country, it is our constituents and businesses that are on the front-lines. Whatever comes into our country—be it a crate of bananas or weapons of mass destruction, be it a tourist come to spend some money in Houston or a terrorist seeking to do us harm—our constituents feel it first.

In the aftermath of September 11th, we all agree that security is and always must be our Nation's highest priority. There is no balancing act as some might suggest. Balancing involves competing interests and a give on all sides. We will and must not balance our Nation's security against competing interests. Rather, we must ensure that the border security solution that SECURES also serves to FACILITATE trade and travel.

Additionally, local and international buy in to border security solutions is critical if we want a system of border management that works. Hoemland security will not work if local communities are not consulted on border securities policies, if their cooperation is not sought, or if implementation of border security programs is not coordinated. Homeland security will not work if we are force feeding border security policies on the very communities that rely on the border for the economic livelihood.

The bottom line but the key to whether we successfully secure our borders is how we choose to go about doing it. It isn't just that we need to secure our country and our borders, but it's important how we deliver that security.

First, international cooperation is critical to effective border security. We must work with our neighbors to the north and south. Many of the border security solutions, such as US-VISIT, require the cooperation of our neighbors to effectively implement.

Second, we must ensure that security at the border is delivered in a manner that enhances and fosters other border and national priorities. How border security programs are designed, the foundations on which they are built, how they are implemented and how the borders are staffed—all of these factors must take into account the security and economic interests of those living in the border region. This is not about balancing competing interests, rather it means that the implementation of security at our borders must be done in a manner that fosters and enhances other border and national priorities.

Democrats believe that to secure our borders we must make a long term investment in our border communities.

We must make a substantial investment in infrastructure improvements at our ports of entry and to the transportation corridors that flow into those ports of entry. According to a report issued by the DHS's own Data Management Improvement Act Task Force, many approach highways and border inspection facilities were considered inadequate and overburdened prior to 9/11.

Additionally, with infrastructure expansion, we must add inspectors to our land ports of entry and ensure that they receive necessary training in foreign languages, fraudulent document detection and in interviewing techniques.

While technology is not a cure all, we must invest in technology that will both secure and facilitate the inspections process.

The Secure Borders Act which my colleagues and Introduced last week articulates a consensus approach to border security. While it was introduced by Democrats, it is a bill that everyone can and should support.

Lastly, what our Nation needs is a honest and open dialogue on comprehensive immigration reform—something Congress has been avoiding for years. As we invest in securing our borders, we must look at solving the issue of the estimated 7–12 million illegal aliens who call the U.S. home. After 9/11, having such a large number of people live in the shadows of society is even more unacceptable. We must review proposals that encourage these people to step forward. And we must at the same time enhance Federal enforcement of our immigration laws.

SECTION SUMMARY—THE SECURE BORDERS ACT

The SECURE Border Act is designed to implement the recommendations of the report, Transforming the Southern Border, issued by Representative Jim Turner, the Ranking Member of the Select Committee on Homeland Security. The bill seeks to close the security gaps that exist on the Southern Border that were identified in the report.

TITLE I—SECURING OUR BORDERS

Subtitle A—Infrastructure Enhancements

*Sec. 101—Creation of a Land Border Infrastructure Improvement Fund*

This provision authorizes $1 billion for an infrastructure investment fund to enhance and facilitate security and commerce at our nation's ports of entry. The Secretary of Homeland Security is authorized to carry out infrastructure improvement projects recommended in the report submitted under Section 102.

*Sec. 102—Requiring a Vulnerability Assessment of Land Border Ports of Entry*

This provision requires an assessment of and a report on the vulnerability of our nation's ports of entry to terrorist attack, the infrastructure and technology improvements needed based on the level of risk posed by vulnerabilities at the ports of entry, and follow up assessments every two years to monitor progress in securing ports of entry. Funds authorized in Section 101 should be distributed based on assessed priority.

*Sec. 103—Enhancing SENTRI, FAST and NEXUS Pre-Enrollment Programs*

This provision expresses the Sense of Congress that pre-enrollment programs should be expanded to every major port of entry, and authorizes pre-enrollment programs, the creation of pre-enrollment centers away from the border, funds necessary to build infrastructure to effectively access pre-enrollment lanes, funds to reduce—participation fee in order to increase participation and creates an appeals process for those whose participation has been terminated. Additionally, the provision requires a report detailing the cost of the program as well as enrollment and enforcement information.

Subtitle B—Enhancing Border Monitoring Technology

*Sec. 111—Deployment of Surveillance Systems Along the US-Mexico Border*

This provision requires the deployment of surveillance systems along the southern border, such as the integrated surveillance and intelligence system (ISIS), and ensure that the entire border is monitored 24/7.

*Sec. 112—Deployment of Surveillance Systems Along the US-Canada Border*

This provision requires that the development of a plan to deploy surveillance systems along the northern border and provide Congress with a cost estimate and deployment schedule by September 30, 2005.

*Sec. 113—Level of K–9 Units Working on the Southern Border*

This provision requires an increase in K–9 bomb detection units by 20%.

*Sec. 114—Deploy Radiation Portal Monitors*

This provision authorizes $49 million to install radiation portal monitors at all land border ports of entry by September 30, 2005.

Subtitle C—Ensuring Well Trained Personnel at Our Borders

*Sec. 121—Double the Number of CBP Personnel*

This provision authorizes the doubling of Customs and Border Protection personnel based on existing positions in FY 2004, and increasing the number of Border Patrol agents stationed between ports of entry by 3000 over FY 2005 and 2006.

*Sec. 122—Assessing Staffing Needs at Our Borders*

This provision requires DHS contract with an independent entity with human resource and staffing expertise to produce a study on staffing levels should be at ports of entry and between ports of entry in order for CBP to accomplish its border security mission. The study is due within one year of enactment.

*Sec. 123—Additional and Continuous Training for Inspectors*

This provision requires training for inspectors and where needed for associated support staff in new technologies. The section also requires that inspectors along the southern border be proficient in Spanish, and that appropriate language training be provided to inspectors and border patrol on the northern border. The provision also recommends the creation of a program to ensure the retention of customs and immigration expertise to supplement the One Face at the Border Initiative.

*Sec. 124—Requiring a Report on the One Face at the Border Initiative*

This provision requires the DHS to submit to Congress a report on the One Face at the Border initiative outlining the goals, strengths and weaknesses, and information relating to training and staffing. The GAO is required to provide Congress with an assessment of the report.

Subtitle D—Establishing a Comprehensive Border Security Strategy

*Sec. 131—Border Security Strategy*

This provision requires the development of a comprehensive inter-agency national Land Border Security Strategy to identify and fix security gaps along the land borders of the United States. The strategy is to review a variety of issues related to land border security including personnel, infrastructure, technology, coordination of intelligence among agencies, legal responsibilities, criminal statutes, apprehension goals, prosecutorial guidelines, economic impact and the flow of commerce. The report is due on year after enactment and a GAO assessment is due fifteen months after enactment.

*Sec. 132—Improved Information Sharing*

This provision requires that IDENT, a two fingerprint database, and IAFIS, a ten fingerprint database, be made interoperable by October 1, 2005.

*Sec. 133—Creation of Northern and Southern Border Coordinators*

This provision creates northern and southern land border coordinator, appointed by the Secretary who serve as the primary official of the department responsible for coordinating federal security activities along the border.

*Sec. 134—Smart Border Accord Implementation*

This provision requires the President to submit to Congress quarterly updates on the progress of the Smart Border Accord Working Groups.

*Sec. 135—Sense of Congress on the Period of Admission for Border Crossing Card Holders*

This provision expresses the Sense of Congress that citizens and nationals of Mexico and Canada should be treated with parity in establishing the periods of time that they are in the US. The provision directs that once US-VISIT is fully implemented that the period of admission for Mexicans using a border crossing card should be increased to 6 months.

Subtitle E—Enhancing Border Security Programs

*Sec. 141—Creating a More Effective Entry-Exit System*

This provision authorizes the creation of a US-VISIT Outreach Office to better inform border communities about the implementation of US-VISIT, reauthorizes the creation of the Data Management Improvement Act Task Force to study issues related to border security, and requires that information currently collected by the I–94 arrival/departure form be collected by electronic means, namely US-VISIT.

*Sec. 142—Transportation Worker Identification Card*

This provision requires the submission of a report by December 31, 2004, on the development and distribution of the transportation worker identification card, including (1) information on how the card will be distributed, (2) the eligibility of Canadian and Mexican truck drivers who are certified under FAST, (3) selected biometric feature and (4) the cost and deployment schedule for card reading equipment.

*Sec. 143—Standards and Verification Procedures for Inter-modal Cargo Containers*

This provision requires that the DHS develop standards for container security 180 days after the enactment of this bill. It also requires the Department to develop a security verification process for container seals and evaluate container tracking technologies, cargo targeting data, and the inspection policy for empty containers.

*Sec. 144—Sense of Congress on the Need for Additional Staff for the US Consulate General in Mexico*

This provision expresses the Sense of Congress that the level of staffing for the US mission to Mexico has not kept pace with rising consular workloads and that a 25% increase in staff is necessary.

Subtitle F—Securing Our Tribal and Federal Lands and Territories

*Sec. 151—Office of Tribal Security*

This provision creates an Office of Tribal Security to coordinate relations between the federal government and Indian tribes on issues relating to homeland security.

*Sec. 152—Transfer of ''Shadow Wolves'' from CBP to ICE*

This provision transfers the Shadow Wolves unit from Customs and Border Protection to Immigration and Customs Enforcement.

*Sec. 153—DHS and DOI Coordination on Border Security; Provision of Temporary Authority to DHS to Transfer Funds*

This provision provides the Secretary of Homeland Security with temporary authority to transfer funds from the DHS to the Department of the Interior to compensate the DOI for border security activities. The DHS and DOI are instructed to enter into a Memorandum of Agreement establishing (1) criteria for DOI to receive such funding, (2) priorities among projects, and (3) scope of activities for such projects. The DHS is required to report the transfer of funds to the appropriate congressional committees and a copy of the Memorandum of Agreement must be submitted to Congress. This provision will expire on the completion and implementation of the National Land Border Security Plan in Section 131.

Mr. TURNER of Texas. I thank the gentlewoman from the great State of Texas.

## THE NATIONAL ECONOMY

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. DREIER) is recognized for 60 minutes.

Mr. DREIER. Madam Speaker, as I look at the clock, I see it is 10 o'clock. At this time tomorrow evening, we will be two-thirds of the way through the debate that is scheduled to take place between President Bush and Senator KERRY, and I know that the focus of that debate is going to be on foreign policy issues. And so I have chosen this evening to talk about economic issues because that obviously will be down the road, but I think that as we get ready for the debate on foreign policy and we spend a great deal of time talking about that, I think it is also important for us to talk about very important economic issues.

Just a few weeks ago, Madam Speaker, most American kids headed back to school signaling what obviously was the end of summer. Kids had 3 months away from the classroom which is usually enough time for them to forget most of what they learned the year before. September is the time when teachers across the country settle down to the task of reviewing what was forgotten and maybe even tackle some new material.

Madam Speaker, I am standing here tonight because I believe that it is not just America's youth that spent the summer forgetting what they have already learned. Last spring I spent a lot of time standing here talking about our economy and debunking a number of the economic myths that were being propounded by so many, like the myth of the, quote-unquote, jobless recovery that is a familiar term. We have heard it so often. We were dealing with a jobless recovery. The myth that we have an economy similar to that of the Great Depression. And, of course, the ever-popular myth that all we have created are hamburger-flipping jobs.

Eventually we saw some sanity in the debate over the state of our economy. Overwhelmingly positive economic news managed to silence or at least quiet this economy's noisiest critics because we were getting very positive news. Strong growth, high consumer confidence, record homeownership, and robust job creation all made it quite clear that our 21st century economy is strong and very vibrant. And the economic policies of this Congress and this administration have been a tremendous success. That was sort of the word that was finally getting through to the American people and to our colleagues on both sides of the aisle before the summer.

Then a few misrepresented statistics this summer managed to convince a lot of pundits, talking heads and even some of my colleagues that our vibrant, dynamic economy was tanking. Once again they began to believe that no jobs were being created, or at least no good jobs were being created. Perhaps it is not just the youngsters that needed to go back to school. I would like to set the record straight on the true state of our economy and give this summer's data and figures a very much needed perspective.

Gross domestic product is perhaps the broadest measure of the economy's health. The growth in GDP. In the second quarter of this year, Madam Speaker, gross domestic product growth grew at a 3.3 percent annualized rate. This is a very healthy and solid pace. But initial GDP estimates were somewhat lower, first 3 percent, and they were later revised downward to 2.8 percent, just under that 3 percent growth. Even these numbers indicate a healthy rate of growth.

But because they were lower than predicted by most economists, the growth rate was widely reported as an alarming sign that our economy was in trouble. I think perhaps the media missed the point. The fact that economists incorrectly forecasted second-quarter growth may be interesting, but the big news here is that the U.S. economy has had 11 straight quarters of economic growth. Eleven straight quarters uninterrupted growth in this economy. Not only do we now know that it grew by 3.3 percent in the last quarter, but the first-quarter rate was revised upward from 3.9 percent to a 4.5 percent rate. This means that the average growth rate of our economy for the first half of 2004 was 3.9 percent, very robust by any standard and higher than the average during the much-heralded Clinton era where we had strong economic growth. The rate then was 3.7 percent on average. Again the first 6 months of this year saw a 3.9 percent GDP growth.

Another supposed cause for concern are the latest consumer confidence numbers. After steadily rising month after month, consumer confidence decreased somewhat in recent months. There is no doubt that constant headlines reporting rising oil prices caused Americans to wonder what impact they would have on the economy resulting in a modest dip in consumer confidence. But despite this blip on the screen, consumer confidence remains at a nearly 2-year high. Let me say that again, Madam Speaker. Consumer confidence, even with that dip with the increase in oil prices, it is at a nearly 2-year high.

Perhaps the more telling number, consumer spending, is also very healthy. Retail spending has grown 5 percent over the past year, a strong pace by historical standards. Excluding auto sales, retail sales have grown at a rate of 7 percent. Americans are clearly demonstrating their confidence in the strength of our economy. Madam Speaker, real earnings also continue to grow. Real average weekly earnings grew seven-tenths of 1 percent in the month of July, and they are up 1 percent during the Bush administration.

To give these numbers a little context, real average weekly earnings increased by just four-tenths of 1 percent during the first 4 years of the Clinton administration, less than half the growth that we are experiencing today. Real hourly compensation has grown four-tenths of 1 percent in the first half of this year and is up 5.2 percent since President Bush has been in office.

Again, in order to give some context, Madam Speaker, real hourly compensation fell four-tenths of 1 percent during the first 4 years of the Clinton administration. That is 5.2 percent growth that we have had during the Bush administration versus a four-tenths of 1 percent reduction in real hourly compensation.

Real disposable personal income is perhaps the best and broadest measure we have of an individual's wealth because it takes into account many forms of after-tax income. This measure also shows a steady, solid pace of growth. During the Bush administration, real per capita disposable income has increased by $1,521 versus the $1,332 increase of real per capita disposable income during the first 4 years of the Clinton administration. So we have actually seen a pretty dramatic increase in the 4 years of the Bush administration juxtaposed to the 4 years of the Clinton administration.

Again, the reason I make these comparisons is that we constantly hear about how we long for the days of the bold and strong and dynamic economic growth that we had during the Clinton administration; and, of course, we recall very well that Bill Clinton was running for reelection in 1996, running on that strong, bold and dynamic economy; and if you look at real per capita disposable income, it actually has increased more in the past 4 years of the Bush administration than it did during those first 4 years of the Clinton administration.

Industrial production continues to climb. Manufacturing output is stronger than ever. Let me underscore that again, Madam Speaker, because we have over the last few months been continuing to hear these lines about how the manufacturing sector of our economy is in the Dumpster. Manufacturing output is stronger than it has ever been.

Productivity. Remember how important productivity is. Constantly for decades we have really had a focus on productivity. Productivity is on a long, steady upward trend. Exports, one of the important things that this administration has focused on, prying open new markets for U.S. goods and services, exports are surging. Business investment is very healthy, growing nearly 9 percent in the last quarter, marking the fifth consecutive quarter of growth. This is particularly significant in light of the 2001 economic recession which was characterized by abysmally poor business investment.

Madam Speaker, today's robust investment demonstrates the strength and competitiveness of U.S. companies as well as a healthy climate in which firms are willing to take risks. Madam Speaker, on all fronts, the U.S. economy is vital and strong. Despite some misrepresentation, the recent economic data demonstrate a healthy and growing economy.

This is not just a temporary phenomenon. These positive indicators are part of a 2½-year trend of growth and a rising standard of living. Of course, we are not going to be satisfied until every single American who wants a job has a job, but as we hear these constant gloom-and-doom predictions and these outlines from so many of our colleagues that you would think that we were in a deep depression, the numbers as well as empirical evidence prove otherwise.

Of course, as I say, in any discussion of the economy, the issue of job creation is obviously the highest priority. On this front as well, the outlook is very bright and continues to be bright. But once again, as I say, some misrepresented numbers are leading to more rhetoric of doom and gloom that have come from so many naysayers.

In July, the new payroll jobs number, the payroll survey jobs number was 32,000. This was much lower than previous months' numbers and fell far short of expectations. Immediately when those numbers came out for the month of July of 32,000, we heard the naysayers, led by JOHN KERRY. They could be heard lamenting the end of our recovery and the start of a downward trend. That is what we continued to hear at midsummer. The announcement of 144,000 new payroll jobs in August has quieted some of the gloom-and-doom rhetoric, but JOHN KERRY & Company still claim that good new jobs are not being created.

But in order to understand what the payroll numbers mean, the payroll survey, there are several key points that we need to keep in mind. The first is that in spite of the July number, the payroll survey does in fact show a very strong job growth. This is the payroll survey, and I am going to talk about the difference between the payroll and the household surveys in a moment; but the payroll survey itself has shown 1.4 million new jobs created in this calendar year alone and almost 1.7 million new jobs created since August of last year.

The second point, Madam Speaker, to keep in mind is that the payroll survey is notoriously inadequate at accurately accounting for new job creation following an economic recession.

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This survey showed a very weak job recovery following that recession in 1991. Quarter after quarter, the meager payroll survey numbers seem to suggest a jobless recovery. Sound familiar? Once more, complete data became available, and once we were able to look at more complete data, we realized that the job creation had, in fact, been very strong throughout 1992. The payroll numbers were revised upwards significantly. Most economists agree that this phenomenon is taking place again today and that the payroll numbers will once again be revised upward.

But the third and more fundamental point about the payroll survey is that it does not measure the entire workforce. Again, the payroll survey numbers that we regularly have come out on a monthly basis do not reflect the entire workforce of this country. This survey only counts jobs in established firms. It does not count self-employed workers. It does not count small-business owners, independent contractors and consultants, LLC partners, and it does not count farmers. The payroll survey, the numbers that we regularly look at, do not take all of those into consideration. Those innovative job creators out there are not taken into the mix.

Historically self-employed workers represented only a small slice of the entire labor force. That is one of the reasons people have relied on the payroll establishment survey as opposed to the household survey. But our economy is many years into a fundamental shift in the overall nature of job creation. Self-employment currently accounts for one-third of all new job creation. Self-employment accounts for one-third of all new job creation, Madam Speaker. That means that that is not taken into consideration in the payroll survey. The Internet and modern technology, especially digital technologies, are making the American dream of owning one's own business a much more accessible reality. Small business startups are booming. LLC partnerships are exploding, doubling the total number in just 3 years in some States. And these small merchants, empowered by the Internet age, are able to compete in the global market right alongside the multinational counterparts. And yet their work is not taken into consideration when the payroll survey is done.

Our 21st Century economy is giving a quickly growing number of Americans the flexibility to work independently and to be their own bosses. This is very good news for workers and, Madam Speaker, for families as well. But it means, as I say, that the payroll survey is increasingly inadequate for measuring this new dynamic 21st Century workforce because that innovation and creativity that is out there is not taken into the mix. It is not taken into the mix at all. Furthermore, the payroll survey numbers are highly susceptible to changing the rates in job turnover. When job turnover is high, a significant amount of double counting takes place as workers move from one employer to another during a short period of time. The result is an inflated payroll number during periods of high turnover. Subsequently, when turnover begins to ebb, the payroll number is artificially deflated.

A number of economists have long been pointing out this volatility in the payroll survey. Tim Kane, who is a very bright economist whom I know at the Heritage Foundation, estimates that high turnover could inflate the payroll jobs survey number by over a million jobs. As a result, there is huge potential for overstating job losses during points in the business cycle when turnover drops. The Bureau of Labor Statistics recently published its first assessment of this problem. Its report did not estimate the full potential for inflating payroll job numbers during high-turnover periods. But the Bureau of Labor Statistics did find that this turnover effect has led to an undercount of at least a quarter of a million, 250,000 jobs, during the period between March of 2001 and June of 2004, a period of low turnover and economic recovery.

Let me run through that problem again. High job turnover prior to the 2001 recession inflated the payroll number in the preceding years. The result has been that, over the past 3 years, while turnover has been low, the payroll survey has shown an artificially low number by at least 250,000 jobs. Based on Mr. Kane's estimate of a potential overstatement of 1 million jobs, the current undercount could be even greater than that quarter of a million. It could certainly be smaller.

Steven Braun at the Council of Economic Advisors estimates that the current undercount could be as low as 145,000. But the point is, there is simply no doubt that the payroll survey is vulnerable to distortion from the job-turnover effect.

So we know that the payroll survey has its shortcomings. But we have several measures of our labor force that, taken together, help to paint what is clearly a more accurate picture of job creation in this economy. The Bureau of Labor Statistics' household survey that I have been mentioning, for example, counts employed workers by going directly to households, directly to the households and counting the number of employed persons. Rather than surveying established businesses, the household survey counts all types of workers. This method makes it possible to account for the self-employed workers who are missed by the payroll survey.

As I have said, the self-employed historically accounted for a relatively small section of the workforce in years past. Because of this, the payroll and household surveys, while taking different approaches to assessing employment, came up at that time in the past with similar results. There were differences here and there, but the two surveys, because of the fact that self-employed made up such a small segment of the workforce in the past, the difference between the household and the payroll surveys, so-called establishment survey, trended together, and the differences were not that great, and they demonstrated a very similar sort of the same employment climate.

In the last few years, however, as I have been saying, an unprecedented divergence has taken place between the establishment payroll survey and the household survey. Since March of 2001, the two surveys have shown an incredible discrepancy in job creation. The gap currently stands at nearly 3 million jobs. That is a 3 million job spread

in the disparity between the prediction of the establishment payroll survey, which simply takes into account those in companies that are actually employed, juxtaposed to looking at the household survey, which goes directly to the homes and asks if people are working there. And while the household survey measures 1.9 million new jobs created since 2001, the payroll data suggests a net job loss of a million over that same period of time.

This divergence shows no sign of correcting itself. In July, the household survey showed a net job creation of 629,000. Remember, as I said, the payroll survey, as I mentioned a few minutes ago, showed 32,000 jobs created. So by the antiquated way of determining jobs in the pre-21st Century economy, what we had was 32,000 jobs created, and yet with the household survey, the month of July showed 629,000 jobs created. There are likely a number of reasons contributing to that major divergence. The turnover factor, as I was mentioning earlier, has obviously had a big impact. And as I discussed, the payroll survey tends to undercount jobs in periods of recovery as was the case in the months following that 1991 recession.

But it is clear, Madam Speaker, that the fundamental changes in the nature of job creation that are taking place in our economy have led to a far greater slice of the labor force that is working independently. As this trend continues, the payroll survey will be increasingly incapable of accounting for all working Americans. I think it is already there myself if we look at the numbers. The household survey alone is not enough to see the complete picture, however. But if we look at all the numbers that are available to us, it is clear that the current household survey numbers are much more in line with other economic indicators than is that very antiquated payroll survey. Average weekly jobless claims have been dropping for 13 straight months. The unemployment rate has fallen to 5.4 percent, lower than the average for the past 3 decades. The ISM manufacturing employment index has shown gains for 15 straight months. The same index for nonmanufacturing employment has been showing gains for 11 straight months.

All of these employment figures are pointing in one direction, and that one direction is up. And yet Democratic presidential nominee JOHN KERRY tries to claim that the economic policies of the Bush administration and this Republican Congress have been an abysmal failure. He claims that no jobs are being created. We have heard that line over and over again: ''George Bush is the first President since Herbert Hoover to preside over a net job loss.'' And yet faced with the evidence that thousands upon thousands of jobs are being created, JOHN KERRY says that they are only low-wage hamburger-flipping jobs that have been created.

Yet we can see from the overwhelmingly positive economic data that this is clearly not the case. Even the payroll survey, Madam Speaker, has shown 13 consecutive months of job creation. And these gains have been across virtually every single industry in our Nation. Gains have been especially strong in high-wage, high-skill industries like business and professional services. There is simply no denying the fact that job creation in this economy is strong and sustained. But the negative rhetoric just keeps on coming, and with it comes several new economic proposals.

JOHN KERRY says he would repeal the very tax cuts that halted a recession, revived business investment, gave Americans bigger paychecks, and produced all of the strong economic indicators that I have just been discussing, including $56 billion in unanticipated revenue to our Federal Treasury that came in because of the economic growth that followed our tax cuts.

In addition to raising taxes on individuals, the Senator from Massachusetts would increase the tax burden on U.S. companies, the job creators, who compete and invest in the worldwide market. He would also impose new labor regulations on these global leaders and create new restrictions.

For example, JOHN KERRY supports preventing globally engaged companies from competing for federal contracts. He is also a cosponsor of the so-called Jobs for Americans Act. Sounds great, but it would impose dramatic new restrictions and regulations on any company, large or small, that invests in growing overseas markets. JOHN KERRY would also bring our trade liberalization agenda to a standstill. He has proposed reopening the trade agreements that have removed barriers to U.S. goods and services, and we are all very proud of this Congress having in the past year passed agreements with Morocco and Chile and Singapore and Australia, very important; yes, small economies but very important market-opening opportunities. So he has proposed reopening the trade agreements that have removed barriers to U.S. goods and services and created new opportunities for American workers and provided quality, affordable choices for the American consumer, which is something we so often forget in the trade debate. He says he would put a moratorium on all negotiations currently in progress. And he has called for reinstating the Super 301 process, which would violate our commitments to the World Trade Organization. Remember, the WTO, often maligned, is an entity which has as its goal eliminating tariff barriers, and it would also, by taking the action that JOHN KERRY has proposed, open up an opportunity for retaliation by our trading partners in the world.

In short, JOHN KERRY's economic platform consists of claiming that our vibrant, growing economy is actually weak and then proposing to make innovators and job creators even less competitive than they are today.

Madam Speaker, several months ago I stood in this well and discussed many of the proposals that JOHN KERRY has made and pointed out that he has been advocating policies that countries like France and Germany have had in place for many years. For decades, Madam Speaker, the French and the Germans have saddled businesses with high taxes and heavy regulation all in the name of what? Protecting jobs. As I said a few months ago when I stood here, we do not have to wonder what the impact of the Kerry economic agenda would be. Why?

□ 2230

All we need to do is look at the economies of France and Germany and decide that that is what our economy would look like under the policy proposals that have been put forth by JOHN KERRY.

So let us look, Madam Speaker, at these numbers again. Since 1999, unemployment in France has been stuck right around 10 percent. At the end of 2002 it dipped as low as 9.1 percent, but it is now back up to 9.5 percent. The French unemployment rate is nearly double the 5.4 percent unemployment rate that we have here in the United States, and it continues to rise at a time when the overall unemployment rate for OECD countries is actually falling.

Remember, this increase is being led by falling unemployment in the United States. For the overall number of OECD countries, our economy is providing leadership. Unfortunately, the French economy, setting the example for the policies that JOHN KERRY has proposed, unfortunately is headed in the wrong direction.

Economic growth, overall economic growth in France has also been very disappointing. Last year GDP growth grew at a very paltry 1.8 percent. Remember, we have talked about it in excess of 3 percent growth here. Estimates for 2004 are that economic growth in France will be at 1.7 percent. Its finance ministry announced it is hopeful the economy could grow by as much as 2.5 percent next year. But even they admit that this relatively slow rate of growth will be difficult to achieve. Getting up to 2.5 percent will be tough for them.

This stagnation is not a recent or temporary situation in France. Average annual growth in gross domestic product throughout all the 1990s was less than 2 percent, Madam Speaker, just over half of the average growth of 3.4 percent that we have had here in the United States.

Germany has faced similar dismal jobs and growth numbers. Since the late 1990s, unemployment in Germany has remained just above 8 percent, and has steadily climbed over the past year. In 2003 it inched up from 9 percent to 9.2 percent; and unfortunately for the German people, it continues to climb.

At the same time, German GDP growth has been a very meager 1.7 percent for the last 2 years, and economic

forecasters have downgraded their predictions of growth for 2004 from 1.8 to 1.6 percent.

Just like their neighbor to the West, Germany has experienced economic stagnation for many, many years. Throughout all the 1990s, economic growth averaged just 1.5 percent, an abysmal one-third of the U.S. growth that we have seen.

But perhaps the most telling numbers of all, Madam Speaker, are what I call the ''innovation indicators,'' the innovation indicators, in terms of new patents, research and development, and venture capital. The United States far outpaces France, Germany, and the entire European Union. As a result, we are the world's leading innovator, right here in the United States.

Our level of innovation, which demonstrates the vitality and dynamism of an economy, together with factors like unemployment and growth in GDP, clearly show that our economy is creating far more and far better opportunities for workers.

Madam Speaker, the competitive edge has led to a significant brain drain from Western Europe to the United States. Over 100,000 European researchers currently work in the U.S. A recent European Commission survey found that more than 70 percent of European recipients of U.S. doctorates in the last decade plan to stay and work in America. This has the commission fretting that by the end of the decade Europe will have 700,000 fewer scientists and engineers than will be necessary to compete in the global economy.

This realization, along with years of flagging growth and rising unemployment, has served as a wake-up call to Europe that their economic policies have failed.

In fact, the policies that JOHN KERRY is advocating have performed so poorly in France, Germany, and throughout the euro-zone area that the Europeans are now proposing significant reforms. It is long overdue, but it is great to hear it. They are starting to move in precisely the opposite direction that JOHN KERRY is proposing to see the U.S. move in. The European Union has realized it is time for them to go back to school and learn what it takes to make sure that economies thrive.

The most sweeping changes are taking place within the European Commission, beginning with the appointment of Jose Manual Barroso of Portugal as the new president of the European Commission. France and Germany had supported the Belgium Prime Minister Guy Verhofstadt, who favors high taxes and heavy-handed government intervention. But EU member countries chose Portugal's Prime Minister, a staunch free market proponent with strong reform credentials.

Mr. Barroso has signaled his continued commitment to the principles of economic liberty in virtually every major appointment he has made for his team of commissioners. The competition portfolio is one that France in particular was interested in nabbing. But the job did not go to a French favorite. Instead, it went to Neelie Kroes-Smit of the Netherlands, a member of the free-market Liberal Party in the Netherlands. As transport minister in the 1980s, she supervised the privatization of key naturalized industries, such as the postal system and the telephone monopoly.

The trade post went to a Brit, Peter Mandelson, a close ally of Tony Blair and a strong proponent of aggressive trade liberalization. The internal market position went to Charlie McCreevy, that great supply-sider who cut Ireland's taxes to the lowest in the European Union and helped Ireland enjoy 8 percent, 8 percent, GDP growth. Latvia's Ingrida Udre was given the taxation portfolio in a clear signal of his support for lower taxes.

Madam Speaker, Latvia adopted a 25 percent flat tax 10 years ago, and has experienced growth rates averaging over 6 percent during the last 5 years.

Clearly, the European Union has witnessed the damaging effects of Franco-German policies of high taxes and high regulation which stifle innovation and entrepreneurship; and as a result of that, the new leadership is attempting to make a fundamental shift in the EU's economic and labor policies.

While France and Germany still seem to be lagging behind in this enthusiasm for change, there are signs that even they realize that their policies are not working. The German Chancellor, Gerhard Schroeder, has been struggling to institute new labor reforms that would significantly reduce the burdens of employers, particularly small business owners, in an attempt to jump-start job creation.

There have also been some surprising proposals in the area of tax cutting. Last month the influential advisory panel to Germany's Finance Ministry actually proposed a flat tax of 30 percent on both corporate and personal income. That is still a high rate by international comparisons. Russia's individual flat tax rate, for example, is 13 percent. But it would be a significant reduction, not to mention dramatic simplification, of the very, very complex system that they have in Germany.

German corporate profits are now taxed at 37 percent and individual rates as high as 45 percent. The tax burden is so formidable that a recent European Commission report estimates that the black market in Germany has grown to 6 percent of its GDP.

While much of Western Europe still has a very long way to go to undo the decades of burdensome labor regulations and protective tax policies, the seeds of change, I am happy to say, are being sown. But it is simply mind-boggling that at precisely the same time that the European Union is getting the message and beginning to deal with the very detrimental effects that they have had of years of bad economic policies, JOHN KERRY is proposing that we as Americans begin adopting those failed policies.

He wants to saddle employers with new regulations. He wants to burden U.S. companies that are global leaders and innovators with higher taxes. He wants to disrupt trade agreements that have created new opportunities for American workers, business and consumers. He wants to fundamentally alter the U.S. business environment that has made us the global economic leader and a magnet for the world's best and brightest.

It is hard to understand what JOHN KERRY could possibly be thinking, but at least he provides the American people with a very clear, distinct choice. On the one hand you have a President who cuts taxes, boosting the after-tax dollars of all Americans and making U.S. companies more competitive; a President who aggressively seeks to alleviate the burdens of unnecessary regulations and frivolous lawsuits on employers and job creaters, particularly small business owners; a President who tears down trade barriers that hurt U.S. manufacturers, service providers, farmers, investors and consumers; a President who has helped to lead our economy into the 21st century economy so it will continue to be the global standard bearer.

On the other hand you have a candidate who wants to stymie the freedom and flexibility that have allowed innovators to develop and harness new technologies; a candidate who wants to prevent our most competitive businesses from investing in the global market; a candidate who wants to burden employers and individuals with new taxes and new regulations; a candidate who looks at our dynamic, vibrant, growing, innovative economy and sees only an opportunity for more heavy-handed government intervention.

Madam Speaker, it sounds like JOHN KERRY could learn a few things from the very Europeans whom he proposes we emulate. Our economy is the global leader because the hard work and innovations of millions of Americans are not constrained by excessive government meddling. France and Germany are reluctantly learning this lesson.

I hope very much, Madam Speaker, that as he continues his career in the United States Senate after this November, that JOHN KERRY will learn those lessons as well.

Madam Speaker, I am very happy to yield to my friend the gentleman from San Diego (Mr. CUNNINGHAM).

A VISION OF PEACE IN THE MIDDLE EAST

Mr. CUNNINGHAM. Madam Speaker, I thank the gentleman from California for yielding. I applied for a 1-hour Special Order, but under the rules you are only allowed 2 hours; and thanks to the goodness of my friend, the gentleman from California (Mr. DREIER), I am able to speak for a few minutes.

Madam Speaker, my intent is to bring something different, something

refreshing to a Special Order. As I listened to my colleagues on the other side, you would think that the White House and Republicans are mean-spirited, evil, and do not really care about the American public. I think it would be refreshing to listen to a Special Order that actually projects a vision. I wish it was my vision, Madam Speaker, but there are many great men that have tried to work on this, and the good news is that it is achievable.

Now, tonight I only have 20 minutes left to speak. On Monday night I will have a full hour and I will expand. But history has witnessed great men with a vision accomplishing some very difficult tasks, and that vision is a safe and secure Israel. That vision is a Palestine that lives in peace beside its neighbor, Israel. It is a vision that says that the Muslim world can be supportive of both Palestine and Israel. And to make this happen, I want to go through this vision.

I am just a Member of Congress. I do not have the power to bring this to fruition. But I think it is possible, and I think if all of us pull together on both sides of this aisle, it could be something that will change this world for the better, for Republicans, for Democrats, and all Americans.

Can you imagine a time of peace? I know in my life I thought there would never be peace in Ireland. I am of Irish descent. A Democrat went under the Clinton administration and I think worked wonders in that part of the world. He had a vision of bringing Ireland together in a time of peace. Are there differences today? Yes. But it is a lot better than it was.

That is what I want to talk about, and this is why I think it is possible, is to talk over this 20 minutes and then the hour on Monday night.

First, I want to tell why I think it is possible. This is coming from a pilot that flew in Vietnam and also flew in Israel in the 1970s. It comes from a Member of Congress that is a strong supporter of Israel, but yet sees the possibility of Palestine living side by side with Israel and peace in the Middle East.

I recently visited Saudi Arabia for a week.

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I went there with a constituent of mine who is an American citizen and has been for many years. He is an American citizen first, but he also wants that vibrant feeling that used to exist between the United States and Saudi Arabia to be rekindled. Madam Speaker, I think that vision is possible, so much so that I am willing to lay out political capital to invest in this Special Order.

I would like to thank Minister Mohammed. He put together a difficult schedule in which I was able to speak to every minister in the council. I was able to talk to the Shura Council, which is like our Congress, to business leaders, to students, to families, to bankers. We even went to an orthopedic rehab center that is rivaled nowhere in the world that takes care of people with orthopedic problems.

Saudi Arabia is a leader, Madam Speaker, in the Muslim community. What happens in Saudi Arabia directs the rest of the feelings in the Muslim community itself. Both Mecca and Medina are looked upon by 1.3 billion Muslims many times a day and pray towards Saudi Arabia, Muslims that want peace, not their counterparts that are active terrorists and extremists.

On 9/11, Saudi Arabia saw many of the Saudi Arabians involved in the 9/11 attacks. They were shocked. And one of the reasons they were shocked is that it was purported that many of the people that were still walking around in Saudi Arabia had been linked to those aircraft crashing into our World Trade Centers, and they were not.

So they acted in disbelief that a nation that had been an ally of the United States, yes, they had problems. They had problems then and they still have problems now. But the majority of Saudi Arabians have a very strong friendship and belief with the United States itself. They thought that this terrible event, when it was confirmed, the Saudi leadership at first was slow to react in some areas; but in other areas, they stepped forward.

One example is they provided millions of barrels of oil right off the bat to stabilize the U.S. economy and to help us meet our needs to help New York, to help the rest of the community when jobs were being destroyed right and left. Madam Speaker, in many instances I will discuss tonight, Saudi Arabia has helped us over and over again.

I want to talk about some of the things I think that hurt us, that can take away from this vision. I look at the students before 9/11 from Saudi Arabia. When I spoke to the cabinet in Saudi Arabia and I spoke to the Shura Council, 75 percent of both the cabinet and Shura Council graduated from U.S. universities. Saudi Arabians that came to this country made personal investments in this country; and to a person, not a single one that had graduated said that they want to separate the ties with the United States. Quite on the contrary. They love the United States; they want to see those relationships rekindled. But, yet, they are angry at some of the things the United States is doing towards Saudi Arabia and the rhetoric that comes out of much of our newspapers that hurts that relationship.

If Osama bin Laden wanted to achieve a division with the United States and one of its best allies in the Middle East, it would try and drive a wedge between us. They feel that is exactly what Osama bin Laden did on 9/11 in using Saudis. He could have used anybody within the entire world.

Let me tell my colleagues about some of these students. I spoke to cabinet members that had graduated and, as a matter of fact, Madam Speaker, the majority of those students obtained Ph.D.s. These are the people who are now leading the Saudi government, both in the Shura Council and within the cabinet itself. But those who had just visited in the United States to a person said, we do not need the United States. I am going to send my son and my daughter to Australia, to England, to Austria, to New Zealand, to English-speaking schools, because they did not make that personal friendship bond with the United States.

My biggest concern, Madam Speaker, is the fact that if we lose that strong support for the United States, 30,000 students from Saudi Arabia prior to 9/11, do we know how many we have today in U.S. universities? Two thousand Saudi students. There is a fine line between issuing visas and national security. Colin Powell is working desperately to change that and weigh the differences between making sure that those visas are offered only to people that are safe; but on the other hand, we are denying access to our universities and our schools, which people within 5 to 10 years, we are going to ask to support the United States, and that support is not going to be here. That is dangerous, Madam Speaker.

I will give a couple of significant issues as examples. When I talked to one of the students, one of the students who had been attending a United States university for many years had gone back and forth, a strong supporter of the United States even though he was a Saudi. When he checked in through INS, the INS agent looked at his passport and saw that he was from Saudi Arabia. The INS agent said, smile for me like a terrorist. These are the affronts that every single day Muslims in this country face, and the ignorance of some people on how it affects people.

I have a constituent that lives in San Diego. He has been an American citizen for many, many years. His brother is still in Saudi Arabia. His brother's son had been a student within the United States, again for many years. He stepped foot into the United States after traveling back and forth many times, was put into handcuffs, was shackled, his legs where he could just shuffle, and shipped back to Riyadh with no explanation. And guess what? When he got to Riyadh, our agency said, oh, it is a big mistake.

Now, when this constituent of mine goes to Saudi Arabia and speaks about how strong the love is that the United States has for Saudi Arabia, can we imagine what his brother purports to him about his son being shipped back without any reason and then it is proven wrong? And did the United States even offer to ship this man back? No, that is not the case.

When I talked to this young man, his name is Badar, and Badar was even allowed to go get a meal. He had handcuffs, his legs were in irons, he had a

tray, and as he is walking to the little cafeteria, he looks over and sees the very agents that had secured him, and he looks and says, can I pick you up anything while I am on my way? I am on my way to do that; can I help you get anything? This is the attitude of many of these young men and women who attend our universities, and it is a shame. They give us support, and the problem is that we may do away with that support in the future.

Madam Speaker, I have heard over and over the media, and even some of our Members of Congress, purport that Saudi Arabia is evil. They have problems in Saudi Arabia. I sit on the Subcommittee on Defense of the Committee on Appropriations, and I also sit on the Permanent Select Committee on Intelligence. I will tell my colleagues directly, not rhetoric, not spin, but the Saudi Government is working with the United States intelligence service in which on Monday, I will purport and submit for the record reams and reams and pages of al Qaeda that they have captured, that they have killed of their own soldiers dying to help us and the rest of the world live in peace from these terrorists. Again, have they had problems in the past? Yes. Do they have problems now? Yes. But we need to help a nation that is trying to help us instead of bashing that nation. In trade, in oil, they have always been there.

Now, in the 1970s, when we had our oil shortage, Saudi did not help us. But since that time, under the first George Bush, under President Clinton, and now under George W. Bush, while the world is providing us oil at $50 a barrel, Saudi Arabia is working to give it to us at $38 a barrel. In the 1970s, when some of us were old enough to remember the gas lines, it was $72 and $73 a barrel. Yet, Saudi is pushing their own wells to make sure that the United States is taken care of, not just for Republicans, but for Democrat administrations as well. Colin Powell is working desperately to resolve this as well.

Let me get into one last issue before my time runs out. Some of my friends that I meet with regularly, and I meet with Jewish constituents, with Persian constituents, with Muslim and Arabic constituents, and they have told me, those who have served in Saudi Arabia, that the Saudi curriculum, education curriculum has not changed in 40 years. Eighty-five percent of that curriculum was okayed by U.S. standards. Fifteen percent was in a gray area. Five percent taught the Wahabiism, the antitolerance system. Well, guess what? Saudi not only supported the 85 percent that we support; they got rid of the 15 percent that was in a gray area. The 5 percent that taught intolerance; they fired those individuals, over 3,000 teachers that were teaching intolerance were eliminated, fired. And they actually have schools that go to purport a new curriculum to help not only not teach intolerance, but to help the Saudi education system itself. Many Americans do not recognize that, that they are trying to work in that direction.

So the students coming to the United States and establishing a bond, the curriculum that they have changed to make sure that it is a curriculum not of intolerance, but of tolerance for other nations and adhere to the United States standards. I think that is significant.

Madam Speaker, I am not sure how much time I have left, but I think it is a good start to set forth on Monday, when we talk about the issues and how do we get from this vision of having Palestine and Israel secure, yet to have a strong Middle East with support for a peaceful system in the viable future.

Madam Speaker, I will start by saying on Monday, I am going to talk about a controversial issue. The Crown Prince Abdullah purported U.N. resolutions and supported U.N. resolutions 338 and 442, and those resolutions were adopted by the United States. They were adopted by the U.N. and NATO and all of the Arab nations. And what that did is it established a Palestinian state, a Jewish state, and if anyone violated those resolutions, the Arab nations would come to the rescue of Israel and support it.

Now, I ask my colleagues, Madam Speaker, can we in today's environment continue the Israeli-Palestinian issue as it exists today? Every day people are losing their lives. I strongly feel before we ever have peace in Iraq and in Afghanistan and Egypt and Syria and Lebanon and other areas that the resolution between the Israeli and the Palestinian people has got to be fixed, and that is no easy issue. They have been fighting for a long time.

So on Monday I want to give my colleagues a vision, not my vision, but a vision that has already been adopted by the United Nations, by the United States, by all of the Arab world, and supported by Crown Prince Abdullah. That is the antithesis of the direction that I would like to go forward in on Monday and give examples of how Saudi Arabia has helped the United States and other nations in the war on terror and the directions that we can go to have peace in the Middle East.

□ 2300

## IRAQ WATCH

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes.

Mr. INSLEE. Madam Speaker, I come to the floor tonight and will be joined shortly by my colleagues who have been consistent in manning our stations in the Iraq Watch. Now, for several months, my colleagues and I in the Iraq Watch have been coming to the floor of the House of Representatives to discuss our policy in Iraq and to ask if we are on the right course in Iraq.

I am reminded why we have been doing that when just before I came to the floor in the cloakroom, watching the TV, I saw a tribute to another fallen American hero in Iraq. That is all too regular an occurrence recently and reminds us why we come here for the Iraq Watch, because we are dedicated to the proposition that the men and women who fall in Iraq should not be shuttled off to page 12 and 14 and forgotten by Americans and have this trial and tribulation in Iraq somehow become sort of a back-burner issue.

We who have participated in the Iraq Watch are committed to the proposition that we need to be diligent in asking hard questions of our government as to whether or not our government is doing the right thing or making mistakes in Iraq. This is important to do for a variety of reasons.

The Vice President of the United States has suggested that only Members of Congress should just act as good little Members of Congress and be silent about Iraq and simply defer to the administration. The Vice President has suggested, at least implicitly, that whatever the administration is doing must be right and that all good Americans must fall in line and be silent about the Iraq policy and to do otherwise would give somehow aid and comfort to the enemy.

Let me suggest that that would be the least patriotic thing for Americans to do, from the U.S. Congress all the way down to the voting booth on November 2, because the people in Iraq serving tonight deserve the right American policy. That is only going to happen if Americans stand up on their hind legs and speak their minds about what we should be doing in Iraq.

So we are doing that, and representing my 600,000 constituents, and I know I will not be alone in expressing some sentiments tonight, to suggest that this administration has not made the right decisions in Iraq and, in fact, has repeatedly made the wrong decisions in Iraq that have now been responsible for us being in this terrible situation that we are now in tonight in Iraq.

Before I yield to the gentleman from Ohio (Mr. STRICKLAND), I would suggest in our discussion tonight there will be two parts of our discussion. One, we will ask whether or not this administration has been right or wrong on a variety of decision-making in Iraq. That is the first part of our discussion. The second part of our discussion is what should we do now to get a fresh approach in Iraq to increase our chance of success in bringing our troops home in a reasonable fashion. Those are both important parts of our discussion.

I have some questions that I would like to pose to the administration, but before I do so, I would like to yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), who has been a very stalwart member of the Iraq Watch to start our discussion this evening.

Mr. STRICKLAND. Madam Speaker, I thank my friend from Washington State for yielding.

Why do we stand here and talk about this subject late at night? The reason is because the people who have made the decisions which have brought us to this current situation, this mess that we face in Iraq, where we have lost well over 1,000 of our soldiers' lives, where approximately 7,000 of our American soldiers have been injured, these same people, and I am talking about from the President to the Vice President CHENEY on down to Secretary Rumsfeld, Paul Wolfowitz, Richard Perle and others, the so-called ''neo cons,'' they have made the decisions which have led us to this place where we are tonight.

We are in a mess. We are in a quagmire in Iraq, and we talk about what has happened in the past because the same people who have brought us to this point want to remain in positions of decision-making. They want to remain in power, and they want to make decisions for what we do in the future.

I just a few moments ago left a dinner that I had with some of my friends from Ohio. These are people who have children and young relatives, and we were talking about the fact that we are in a situation in this country where our military is stretched so thinly that we are literally extending Reserve and National Guards persons well beyond any reasonable length of service in Iraq. They have been jerked out of their communities, away from their families, away from their jobs and professional responsibilities, and they find themselves now in Iraq.

We have a situation where we have instituted the so-called backdoor draft where those who had felt that they had long since fulfilled their military obligations to this country, some in their forties, even I believe many in their fifties, are being pulled out of their communities, away from their families, sent to Iraq.

We are taking our troops away from other really troubled spots in this world, and I would especially mention South Korea. We know that North Korea has stated they are going to go ahead and pursue their nuclear strategies. We are bringing troops away from South Korea simply because we cannot meet our military obligations.

We have got about 135,000 to 140,000 American troops in Iraq tonight. The next country that has a significant number of troops in Iraq is Great Britain. They have got somewhere in the vicinity of 6,500. We have got 135,000 to 140,000, and the reports are that even Great Britain is considering withdrawing up to one-third of their troops from Iraq.

So what do we have? We have a situation where every mother and father in this country should pay attention if they have a child and they do not want that child facing a military draft and being forced to go fight this war that George Bush has started in Iraq. I do not care if a parent's child is 10 years old or 14 years old or 18 years old. If they do not want that son or daughter to be subject to a military draft, they should be paying attention, because although the President says he has no intention of instituting a mandatory draft, if you look at the situation, you look at our manpower needs, you look at the fact that the National Guard is currently having difficulty recruiting sufficient numbers, that they are even taking people who are pre-enlisting, they may still be completing their education, for example, and will not actually be eligible to enter the military for another year or so, they are counting those people as new recruits in order to at least pretend that we are meeting our current manpower needs. That is happening right now.

Mr. INSLEE. Madam Speaker, I just want to add to the point backup for what you are saying.

I read in the last 3 days two very disturbing things. Number one, for the first time in 15 years, the National Guard has fallen over 5,000 people short in their recruiting, for obvious reasons, that we see the stretch that has resulted in a silent draft already of pulling people back repeatedly, and 50-year-old people who have gone to Iraq once for a year, come back for several months, now have to go back again, leaving their families and careers. Of course, the National Guard is going to fall short.

We already have a silent draft because now the Army's pulling people back who served 4- and 5-year terms already, who never understood that they could realistically thought they would be pulled back, and it is disturbing to show you how bad this is. I think something like 25 percent of those people have not appeared for duty. They are so upset about what has happened. This is a major problem in our military because the President planned so poorly about what was going to be involved in Iraq.

Mr. STRICKLAND. Madam Speaker, if the gentleman would yield, my understanding is that those people, those citizens out there, are now being considered deserters because they have not reported.

This is a serious matter. I think the President should be talking to the American people in a very straightforward way about how he intends to meet our military personnel manpower needs without a draft.

□ 2310

Just simply saying we are not going to have a draft is not an answer, because we have the need.

What happens, for example, if something were to break loose on the Korean peninsula? What happens? North Korea is basically thumbing their nose at this administration and basically saying, what are you going to do to us? You are bogged down there in Iraq. Your military is stretched thin. What are you going to do to us if we decide to continue to pursue our efforts to acquire nuclear weapons?

Then there is Iran. Iran is saying basically the same thing. Do they feel intimidated by us? Well, apparently not, because they are indicating they are going to go right ahead with their nuclear program. And we are bogged down in Iraq.

Now, the fact is that Iraq did not have a nuclear program. Iraq was not an imminent threat to this country. Iraq did not present a danger to the American people, but we have diverted our resources and our military capabilities to Iraq, and now we are bogged down there. It is a quagmire. The President wants to avoid that word, but when you have large geographic areas and huge cities in Iraq that are off limits, that are ''no-go zones,'' where our soldiers cannot even enter, then you are living in a make-believe world to say things are going well; that we are going to have elections in January; that democracy is on the march. It is not.

We are not winning in Iraq. And it is not the fault of our soldiers. We honor the service of our soldiers, all of us in this chamber do. But we are just sick and tired of the lack of candor coming from this administration.

Mr. INSLEE. Reclaiming my time, Madam Speaker, I want the gentleman to know that it is not only our sort of hard military assets, when we think of soldiers and tanks and ships that have been pulled away from the real threats that we face, it is our intelligence services. Our intelligence services were pulled off of hunting Osama bin Laden to deal with Iraq.

They actually took the Predator aircraft that was searching for Osama bin Laden up in Afghanistan and moved it to Iraq. And we still have not found Osama bin Laden. We actually diverted intelligence sources that could have been used to find out what Iran is actually doing with their nuclear program, a real threat to this country, a real statement that Iran wants to develop fissionable material. But we moved it to Iraq.

Instead of having intelligence services in North Korea to find out what they are really doing, it is in Iraq. Our intelligence services have been malpositioned as a result of this.

Before we go on into a lot of detail, I would like to suggest ten questions that we in Congress have a duty to ask the administration, and I think the American people have a duty to ask the President of the United States. I think, during the next 5 weeks, this is a very important time to ask these ten questions, and I will posit these ten questions and maybe even hazard an answer about the President's performance in Iraq.

The President's performance is a life or death matter, and we have to ask whether the President's performance has been up to snuff or whether it has been something below expectations and whether it has cut the mustard.

Mr. STRICKLAND. Before the gentleman asks those questions, Madam

Speaker, if he will continue to yield, I would like to make one further comment.

I would hope every parent in this country would ask themselves, as they contemplate this war and the situation in which we find ourselves, do they believe that this President's leadership is such that his wisdom, his maturity, his judgment is such that they would entrust their son or their daughter to go fight this war in Iraq?

And the reason I think that is a relevant question is because the President is asking no one to sacrifice for this war save the soldiers who are there risking their lives, in too many cases dying and being injured, and the people who love them back here at home. No one else is being asked to participate in this war.

We are not being asked to pay taxes to pay for the war. We are not being asked to in any way discipline ourselves by saving energy so that we are less reliant on the Middle East for oil and gasoline and such. The President is not sacrificing for this war. It has not touched his life in any direct way. Members of this House, our friends in the other body, by and large, are not sacrificing for this war. I believe there are maybe two Members of the 435 Members of the House and 100 Senators who actually have a child, a son or daughter, who is a part of the active military now.

So we are not sacrificing during this war. The American people generally are not being asked to sacrifice. Are we being asked to pay taxes so that the cost of this war will not be passed on to future generations? No. No. That is not happening.

So it seems appropriate that as we contemplate the fact that some moms and dads are sacrificing and have sacrificed, some husbands and wives have sacrificed, this very night they go to bed wondering whether or not their loved one is going to be safe, it seems that we should reflect upon what is happening here with regard to the fact that we have entered a war of choice.

Iraq did not attack us. Osama bin Laden attacked us. The al Qaeda network attacked us. Iraq was not an imminent threat, yet we find our sons and daughters fighting and dying in this war. So I think it is appropriate to pause and say to the mothers and fathers in this country, do you think this war is worth the sacrifice of your son or your daughter?

And if the people who are listening cannot answer that question in the affirmative, it seems to me then that they should start to question whether or not the sacrifice of some other moms' or dads' sons or daughters is worth the sacrifice.

Mr. INSLEE. Madam Speaker, this Congress needs to ask an additional question. Do we have the right people making the decisions that have exposed our sons and daughters to this life-and-death situation? It is certainly appropriate to ask at least ten hard questions in that regard to see whether this administration has been right or wrong in Iraq.

So I will ask quickly ten questions and posit an answer, and they all are very simple. Was the President right or wrong on various issues in Iraq? I will ask these ten questions, and then I have pretty clear answers that should be pretty obvious to anyone.

Question number one: Was the President right or wrong when he started a war under the statement clearly made to the American people that there is no doubt, no doubt, he said, that Iraq had weapons of mass destruction? Was he right or was he wrong on this life-or-death question?

The fact simply is, he was wrong. He was wrong not only in hindsight, which is easy, but in foresight, because we now have seen the intelligence, and we know there was lots of doubt. This President says there was no doubt, and he was wrong. Then when he made that statement, and over 1,000 Americans have died as a result of that misstatement. The President was not right. He was wrong.

Question number two: Was the President right or wrong when he led Americans to believe that Saddam Hussein was connected to the attack on America on September 11? Was he right or wrong when he led Members to believe that?

Mr. STRICKLAND. Madam Speaker, if the gentleman will yield, I would like to answer that question.

He was absolutely wrong. And in spite of all the evidence, the evidence, for example, that is coming from the 9/11 Commission, this bipartisan commission that found that there was no credible relationship between Saddam Hussein and the attack upon our country, in spite of that evidence, the Vice President continues to try to mislead the American people and to cause the American people to see a connection that did not exist between Saddam Hussein and the attack upon our Nation.

So the answer to the gentleman's second question is, the President was wrong.

Mr. INSLEE. Let us go to question number three: Was the President right or wrong when he led the American people to believe that we would be welcomed as liberators, with rose petals aplenty, with joy in the streets for months welcoming us, which would reduce the need for American troops? Was he right or wrong?

He was wrong, unfortunately. And he was wrong not just in hindsight but he was wrong in not listening to his own intelligence reports that we now know that he had. A report came out last week about the intelligence report he had at that time that predicted because of the ethnic tensions in Iraq that we would be seen as occupiers from day one. He was wrong.

□ 2320

Question number four: Was the President right or wrong in rejecting the advice from his own military personnel that we would need several hundred thousand troops in Iraq to provide security immediately after the collapse of the Iraqi Army or else loitering would run crazy and anarchy would run through the streets? Was he right or wrong when he sent out his hit men to defame General Shinseki, to say that General Shinseki did not know what he was talking about when he said we would need at least 300,000 or 400,000 troops to do this job?

Mr. STRICKLAND. Madam Speaker, he was wrong again. The fact is that this question points to the fact that the civilian leadership within this administration really discounted the professional military advice coming to us from the military folks who had given their lives to studying and having knowledge about these issues. The fact is that General Shinseki, they say he was not fired, but he was pushed aside. He was forced into retirement because they did not want to hear what he had to say. When he gave advice that they found inconsistent with their own predetermined notions of what they wanted to do, they forced General Shinseki into retirement. Once again, the President was wrong.

Mr. INSLEE. Madam Speaker, my fifth question: Was the President right or wrong when he said or the assumption was made that not all of our troops needed body armor and we did not need heavy armor in the streets of Baghdad because only the people in the front lines would be targets? He was wrong. Anyone who knows anything about insurgency should have reached that conclusion. The gentleman from Ohio (Mr. STRICKLAND) has done yeomen's service in fighting this administration to get that body armor to our people.

Mr. STRICKLAND. Madam Speaker, I know something about body armor. There have been accusations that one of the candidates for president voted against an $87 billion supplemental request, somehow deprived our soldiers of body armor. I know something about this because, early on in the conflict, a young constituent of mine, a graduate of West Point and a gung-ho Army guy, wrote to me and said, my men wonder why they do not have this body armor protection. The fact is I started writing letters to Secretary Rumsfeld and General Myers.

I got letters back, and basically, they said to me, we did not plan adequately, we do not have the materials that are necessary to provide this body armor.

So the truth is, in answer to the gentleman's question, the President was wrong because the President chose to send our young soldiers into battle without body armor. It took this administration an entire year from March of 2003 until March 2004 to protect all of our soldiers with individual body armor. And the body armor I am talking about is referred to as the interceptor vest. It costs about $1,500 a piece. It is composed of a vest made of

Kevlar with pockets in the front and back for the insertion of ceramic plates. This vest is capable of stopping an AK–47 round. I believe to the core of my being that we have had soldiers lose their lives and be unnecessarily injured simply because this administration prematurely sent our soldiers into battle without this vital equipment. The President was wrong when he sent our troops into battle without adequate body armor.

Mr. INSLEE. Madam Speaker, the sixth question: Was the President right or wrong when he told Americans that, after the mission was accomplished and the President made his grandiose landing on the aircraft carrier in full regalia with the wonderful flight suit and helmet on, and stood in front of a banner that said ''Mission Accomplished'' and led Americans to believe it was going to be a decreased violent situation, was he right or wrong? And let me suggest that it was 800 lost American heroes ago. He was wrong sadly.

But the problem with this is this is a repeated circumstance with this administration. The administration said that after the Iraqi Army collapsed, things would get better. They got worse. The President said that when we had the turnover, the purported turnover to a provisional Iraqi government, things would get better. They have gotten worse. We are having an accelerated loss of men and women since the turnover.

The President says after the election, things will get better. The President simply has been wrong time and time again with his rose-colored glasses and not facing the truth of the situation in Iraq.

The seventh question: Was the President right or wrong when he decided that the way he was going to do the reconstruction of Iraq was not to hire Iraqis, not to hire Iraqi personnel to do the work, not to hire poor Iraqis which he might get off the street and reduce unemployment, but instead give the contracts to his friends at Halliburton so Halliburton could hire people from the Philippines with our taxpayer money? He was wrong in giving the money to Halliburton and the reason he was wrong is we know that every employed Iraqi is one less potential recruit for the insurgency, and we have been wasting billions of American taxpayer dollars, not using it effectively in the reconstruction of Iraq.

Madam Speaker, my final question, my eighth question is: Was the President right or wrong in saying now that we have done enough, at a proper rate of training the new Iraqi security force, was he right or wrong?

I am going to give Members one tidbit that I read today. Today, a year and a half after the invasion, this administration still has less than 40 percent of the infrastructure for the military necessary to train the Iraqi Army. So here we are with our GIs in harm's way and a year and a half later this administration has less than half of the people they need to do the training of the Iraqi Army, and they expect to have an election in 3 months.

Madam Speaker, I yield to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Madam Speaker, here we are again late at night asking questions.

Madam Speaker, it is a rare commodity, unfortunately, in Washington, D.C., when one speaks of courage. We witness courage all over America. We witness courage in terms of our men and women overseas risking their lives. We observe courage every day in our streets, particularly with our public safety officials. We clearly witnessed an extraordinary level of courage and heroism on September 11, but we seem to have a paucity of political courage because I believe and I think that most Americans share the view that political courage involves admitting that you are wrong when it is clear that you have made a mistake.

Madam Speaker, all of the questions that the gentleman from Washington (Mr. INSLEE) posed to the gentleman from Ohio (Mr. STRICKLAND) elicited an obvious answer, that the President was wrong.

□ 2330

But what I find most disturbing is the inability of this President to summon the political courage to acknowledge that he was wrong. It is certainly no disgrace to make a mistake, to be wrong. We have all done it. I do it every day. But what I think is particularly un-American, undemocratic, is a reluctance to be forthright and honest about your failures. We do not hear that from this President. That is sad. Because that kind of courage would be the earmark of genuine leadership, of leadership that would be embraced by all of us, irrespective of partisan differences. But it is so sorely lacking at this moment in our history.

We need a leader with political courage. I think it became clear to me last March when David Kay, the man who led this White House postwar effort to find the weapons of mass destruction that were purportedly in Iraq, called on the President to come clean with the American people. I think when he made that call, he felt that the President was receiving poor political advice and that what was necessary was to acknowledge that a mistake had been made. I know that the two of you remember his appearance before a committee in the other branch that appeared on the front page of, I think it was Time magazine, but it was eloquent in its courage when he said, ''We were all wrong.'' It is not a sin to be wrong, but it is not being patriotic and American to lack the courage to admit a mistake was made.

David Kay said, and I am quoting from a story that appeared in the Guardian, a highly respected English magazine. He said that the administration's reluctance to make that admission was undermining its credibility at home and abroad. He called for a frank admission, even though it was embarrassing.

Not only are we losing our prestige, not only are we losing our claim to moral authority but because of this President's failure to admit he was wrong, let me suggest we are losing the war on terror, because we are losing allies every day and the American people should know that. Because when you review the hard evidence that shows that incidents of terror are increasing dramatically every day all over the world, particularly in Iraq and in Afghanistan, I fear that we are losing that war, a war that every American wants to win. I thank the gentleman from Washington for enumerating that list of mistakes. But I could even forgive this President if he could accept responsibility, but he cannot. That is a failure of courage.

Mr. INSLEE. I think the ninth question dovetails with what you are saying so eloquently that all of us can make mistakes. It is human. And these are difficult situations, obviously. But my ninth question, I think, goes to an issue that exposes why we are in such a difficult situation in Iraq. The ninth question is, Is the President right or wrong when he tells us, or leads us to believe that most of this violence against Americans in Iraq are outside forces of Iraq, sort of these outside terrorists who are coming into Iraq to commit this horrendous violence against us? The reason he has said this, I think, is he wants to believe that because he does not want to believe that the Iraqis themselves do not view us as liberators, because he always believed that apparently we would be greeted as liberators. He apparently cannot get out of that mind-set that some Iraqis view us as occupiers.

So was the President right or wrong when he says that most of the violence against Americans is caused by people from outside of Iraq? The President is wrong. The reason I know that is they finally did an evaluation of the people in custody in our prisons, Abu Ghraib where we obviously had a lack of leadership as far up as the Secretary of Defense; but what they found was of all the people we had in custody, less than 2 percent were from outside of Iraq. Less than one out of 50 of these people that we had in custody were from outside Iraq.

What does that tell you? That is bad news for us, because what it means is that 49 out of 50 of those people are Iraqis who are fighting, who are domestic and who live there. That means that the President's working assumption from day one that we would be seen as liberators simply is not the case, and he refuses to recognize that reality.

Mr. STRICKLAND. On this question, this ninth question, I think the President is partly right. I think he is mostly wrong because as my friend from Washington has indicated, the people

in Iraq simply do not want us there. All the opinion polls indicate that. When you see the people dancing in the streets when one of our tanks has been exploded or something, oftentimes you see young Iraqi children. These are not foreigners that have invaded Iraq. But I will admit that the President is partly right, because some of the people in Iraq now are in fact terrorists from outside the country.

But that leads to another question. When did they come there, and why are they there? The evidence is that Iraq was not a country that was filled with al Qaeda terrorists prior to this war, but in fact since this war has started, now Iraq is becoming a haven for terrorists. Terrorists are in fact coming. Some of the Taliban, we are even being told, the former Taliban terrorists that were in Afghanistan are now finding some haven for themselves in Iraq. Some of the large cities in Iraq are havens for the terrorists. These are the so-called no-go zones where our troops cannot go and say they are places which are really breeding terrorists.

So I do think that we have created a mess in Iraq. We have taken a country that was not an imminent threat to us, we took a country that was controlled by an authoritarian, despicable dictator who abused his own people, that is true. That is Saddam Hussein. Are we glad he is gone? Absolutely. He was a terrible human being, a terrible person. But the fact is that does not cover the problem we have of justifying invading Iraq as the President indicated because they were connected to the attack on our country or they were somehow an imminent danger to us or were developing nuclear weapons or had weapons of mass destruction.

□ 2340

None of those things are true. So what I am trying to say to my friend in regard to his ninth question, which I think is a thoughtful question, we have created in Iraq, or this administration has created in Iraq, a breeding ground for terrorists, and many of those terrorists are homegrown Iraqis. Some of them are the result of outsiders seeing an opportunity now to go into Iraq because of all the chaos that exists there and join this effort against the United States.

Mr. INSLEE. Madam Speaker, I really think that is a perceptive comment, what he said, which I agree with, that while Iraq may not have presented a terrorist threat before this invasion, it does now. And I think that is a very perceptive thing to say and I agree.

Mr. STRICKLAND. Madam Speaker, if the gentleman will continue to yield, to make an effort just to clarify what I am saying, the President has made every attempt to convince the American people that the war in Iraq is the war against terror, and he has tried to blur the distinctions between Osama bin Laden and Saddam Hussein. He has tried to imply that al Qaeda, this terrorist network, was operative in Iraq.

The fact is that the American people know better. They know the war on terror is the war against Osama bin Laden and against those who attacked our country. And the fact is that when the President tries to blur that distinction, I think he is doing a disservice to the American people.

There is a war in Iraq, a preemptive war which we initiated. There is a war against terror, against those who were associated with Osama bin Laden and who are determined to once again strike our country. And I would just remind the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Washington (Mr. INSLEE) that the leader of the war against us in terms of a terrorist network is Osama bin Laden. And Osama bin Laden is alive and well somewhere. And this President spoke for 63 minutes at the Republican convention and never once mentioned his name.

Mr. INSLEE. Madam Speaker, reclaiming my time, I have heard it said that he is really ''Osama been forgotten,'' and unfortunately that has some truth to it.

Let me ask my tenth question about whether the President has been right or wrong on these critical issues.

Was the President right or wrong when he told us that the American taxpayer would not have to pay for this effort because the Iraqi oil fields would be producing enough to essentially pay for this operation in the reconstruction of Iraq? Something Mr. Wolfowitz told I think every single Member, 435 Members of Congress, looked us in the eye and said not to worry, the Iraqi oil revenues will pay for this; the American taxpayers are not going to have to sacrifice a dime for this operation.

Madam Speaker, I yield to Mr. DELAHUNT to answer that question, was the President right or wrong in that regard?

Mr. DELAHUNT. Madam Speaker, not only was he wrong, but what the administration did, and we have heard much about $87 billion, and the White House attacks JOHN KERRY because he voted against the $87 billion, but what they failed to do was tell the other half of the story, like we all voted against the $87 billion also, because not only did he fail to tell the truth about the cost of reconstruction but rather insisted that the monies that were to be utilized in rebuilding Iraq were to be a gift, a giveaway. So all of those American taxpayers who are out there who were misled about the cost of the war being paid for by the Iraqis in the first instance, they should understand that all of the money we are pouring into Iraq is not a loan. It is a gift. It is a giveaway. It is welfare, if you will.

We heard today about welfare, welfare to work. We are providing welfare for the Iraqi people. We are building them 6,000 miles of roads. We cannot get a transportation bill through here to help build American roads and repair them. We are building schools in Iraq, and we are rehabilitating schools in Iraq, thousands of them. But there is no money to rebuild and rehab schools in America.

And do my colleagues know what else we are doing? We are building affordable housing, 25,000 units, for Iraqi people. In the United States, with our population, which is ten times that of Iraq, we are building 5,000. And do my colleagues know what? Mr. and Mrs. Taxpayer are not going to get a dime of it back. Sure, there are other nations that are giving something, nowhere near what we are, but their governments insisted it be a loan.

So, in short, Madam Speaker, we were misled, and the American taxpayer has been duped, and the American taxpayer is not going to get a dime back.

Mr. INSLEE. Madam Speaker, reclaiming my time, let me add insult to injury. The President has essentially wanted to fight this war on the cheap and not pay for it, the first time in American history where a President has done massive tax cuts in the middle of a war. And as a result of that, what this President has done has put the real cost of this war and the reconstruction of Iraq not on our generation. It is all deficit spending. The $200 billion-plus is all deficit spending because the President has not had the gumption to go to the American people and ask them to pay for this war. Winston Churchill said, ''All I have to offer you is blood, sweat, toil, and tears.'' This President has not been willing to level with the American people to really say, I am asking them to buck up for the cost of this. And when one is not willing to be candid with the American people in that regard, how can we continue to maintain support for this operation? This deficit spending is wrong.

I just want to summarize before we go to the future and use our remaining time talking about where we go in the future. I just want to summarize our discussion. We have asked ten questions tonight, the ten critical questions about this President's performance in Iraq, was he right or wrong? Here is the summary of the answers:

He was wrong on WMD. He was wrong about al Qaeda's links. He was wrong about our being greeted as liberators with rose petals. He was wrong about the number of troops that we would need to maintain security in Iraq, despite the advice of his own generals. He was wrong about not saying that we needed body armor for everyone. He was wrong about saying, as soon as mission is accomplished and there is a new government, things would get better. He was wrong about saying it is better to give deals to his friends at Halliburton than it is to Iraqis working to get this work done. He was wrong about saying there would be a decrease in violence. He was wrong about saying that the majority of the people essentially are outside of Iraq. He was wrong about not providing enough trainers early enough to get an army of Iraqis up to face this threat. And, lastly, he

was wrong in not facing the real cost of this operation and wrong in making this all deficit spending.

Those are ten very serious failures of leadership by this American President. And these are not peripheral issues. And it shows a pattern. And one thing the gentleman from Ohio (Mr. STRICKLAND) said and the gentleman from Massachusetts (Mr. DELAHUNT) both, these are difficult issues. We can all make mistakes. But this is a pattern of repeated failure that has now resulted in a terrible situation where things are getting worse rather than better in Iraq. There has been one person in the administration who has said that, and that is the Secretary of State. Exactly one person in the administration has recognized how dire this situation is. And now the American people are going to be called to ask, was this good enough performance in difficult situations? And that is a decision they will make in November.

I hope we can turn our discussion for our remaining time now about our suggestions about where we go from here, what we suggest we need to do because we are in this pickle together. Democrats and Republicans, we are all in the lifeboat together. Let me just make one quick suggestion I would make.

□ 2350

I believe it is important for the American President to make very clear to the Iraqi people that we are not going to be in Iraq forever. We are not going to be a permanent presence in Iraq. Unfortunately, he is sending different messages and building 14 permanent military bases in Iraq that obviously are going to be there for decades, the way they are under construction.

We need Iraqis to realize their destiny is in their hands, that they cannot rely on us. They need to get on their own two feet and shoulder these burdens. These groups we are putting in the army have to decide they might have to engage for their own benefit, they cannot rely on us as a crutch forever. We need to make that statement very clear to the Iraqis to encourage them to take responsibility for their own destiny.

I yield to the gentleman from Ohio.

Mr. STRICKLAND. Madam Speaker, I like that suggestion from my friend from Washington State, that we need to convey to Iraqis that we do not intend to stay there.

A second suggestion I would like to make is we need to convey to the world community that this is their problem, not just an American problem. Stability in the Middle East, access to the resources, the oil resources in the Middle East, is important for so many countries, not just us. But the fact is that this President and this administration really have stuck their thumbs in the eyes, figuratively speaking, of so many of our traditional allies.

The fact is that we had this administration announcing right off that the work to do the reconstruction in Iraq would only go to certain companies, Halliburton being the primary one, and no other countries could or would be involved. So we basically said we do not want you involved, because, as was said earlier, we thought it was going to be easy sailing. We would go in there, they would love us, democracy would bloom, we would have access to oil, and we did not want the help of other countries.

Now it has gotten pretty tough, and we find more and more of even the coalition partners pulling back, pulling away. Some countries have pulled out entirely. Even Great Britain, they are talking about the possibility of reducing their force in Iraq by one-third. So I believe we do need to internationalize the effort in Iraq.

We need to go to the UN, we need to go to NATO. We need to say this is a problem that is of importance to all of us, the solution must come from all of us, and the burden must be borne by all of us.

Now, can President Bush do that? I doubt if he can. I think he has so poisoned the water in terms of our international relationships that it is highly unlikely that we will ever be able to develop the kind of international cooperation and coalition that will enable us to extricate ourselves from Iraq in a timely manner with honor. So that is why I believe we need a change in administration.

Now, our traditional allies, and I am talking about the Europeans that have fought wars with us and been our partners, I do not think they like to be alienated from us. I do not think they like a division between our country and their country. I believe they would welcome an opportunity for a rapprochement, for a coming together, even to deal with this most difficult issue. But I do not think it will happen under the leadership of this President or this administration.

So my suggestion, in addition to the one I have heard from my colleague and friend from Washington State, is that we move forward with a renewed effort to internationalize the conflict in that part of the world, and I think it can be done, and I think it will be done under new presidential leadership.

Mr. INSLEE. Madam Speaker, I yield to the gentleman from Massachusetts (Mr. DELAHUNT) for a suggestion.

Mr. DELAHUNT. Madam Speaker, I would simply add to that is what we have now is the President in terms of world opinion that has very little credibility. Let us just state the truth, the reality: If we are going to internationalize, we have to have an administration that has credibility and respect throughout the world.

There was a recent survey of some nine Islamic countries, and in fact Secretary Powell just indicated that the magnitude of anti-Americanism throughout the world and specifically among Muslim nations is growing at a fearful rate. But the survey that was done of these nine countries indicated that the vast majority of those people in those nations believed that we went there for oil; for oil.

I would like to leave you with this question: Before September 11, according to an anecdote that was related in a book by the former Secretary of Treasury, a Republican, a conservative who served in the Reagan and the Nixon administrations, indicated that on February 26, 2001, months before our national tragedy, he saw a map. It was prepared by the Secretary of Defense, Secretary Rumsfeld, with markings for a super giant oil field and earmarked for production sharing and dividing the largely undeveloped southwest of the country into nine blocks for future exploration.

In other words, in February of 2001, according to Secretary of Treasury Paul O'Neill, the administration had a map, and the map is to my left. This was before any issue of weapons of mass destruction or links to al Qaeda came up.

Now, where did this map come from? Well, it was produced as a result of a lawsuit, a lawsuit by a group called Judicial Watch, which certainly is no fan or ally of partisan Democrats. They secured it as a result of discovery proceedings in a lawsuit against the vice president of the United States, DICK CHENEY, because of the secrecy surrounding his Energy Task Force. That is where it came out. And here is the map of Iraq.

We need some answers and the rest of the world needs some answers about this map, about Secretary O'Neill's reference to it, so that we can clarify, once and for all, what the real motive of our military intervention in Iraq was all about, because it is stories like this that lead the rest of the world to doubt our motives and our proclamation, Madam Speaker, that we are bringing democracy to the rest of the world.

Mr. INSLEE. Madam Speaker, reclaiming my time, the gentleman brings up the issue of our relationship with these contractors.

Let me make a third suggestion, and that is that this administration stop pouring money into Halliburton and start getting it to Iraqis so they can get to work rebuilding their own country.

There is no reason for us to be giving our taxpayer dollars to Halliburton so they can hire Filipinos and take, I don't know what the percentage is, but to skim profits off the top in this cost-plus kind of contract, no-bid contracts. That is wrong to taxpayers. But, more importantly, it is wrong in our effort to stop the insurgency in Iraq.

You have got thousands of idle young men in Iraq with no job, and yet we are paying our taxpayer money to hire Filipinos in Iraq? This makes no sense whatsoever. Whatever relationship the vice president had with Halliburton, it should not be driving bad decision making when it comes to contracting in Iraq. That has got to stop. That is my third suggestion.

Madam Speaker, I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Madam Speaker, I just want to thank my friend the gentleman from Washington (Mr. INSLEE) and my friend the gentleman from Massachusetts (Mr. DELAHUNT) for participating tonight. What we are talking about is quite serious, it involves life and death, it involves the future of our Nation, and the American people need to be paying attention, because this war could drag on for 50 years or more.

We have unleashed a hornet's nest in the Middle East and I see no plan to bring it under control. All we are promised by this administration basically is more of the same or something worse, out-and-out civil war, with our troops caught in the cross fire.

So it is important that we talk about these matters, it is important that the American people pay attention to these matters, because we are going to be making a decision in 32 days, or something like that, regarding the future of this Nation, and I believe under the current administration we will have nothing but more of the same.

Mr. INSLEE. Madam Speaker, reclaiming my time, we will note that we will continue our discussion about Iraq in the weeks to come. We owe this obligation to our men and women serving proudly tonight. We will not be intimidated into stopping to ask these hard questions of the Federal Government. Americans deserve these questions to be asked, and they will be answered.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MEEK of Florida (at the request of Ms. PELOSI) for today and September 30 on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. VAN HOLLEN, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

(The following Members (at the request of Mr. NORWOOD) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD, for 5 minutes, today and September 30, October 4, 5, and 6.

Mr. HENSARLING, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and September 30 and October 1.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2742. An act to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court; to the Committee on the Judiciary.

## ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.

H.R. 3389. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

## SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 41. A Joint Resolution Commemorating the opening of the National Museum of the American Indian.

## ADJOURNMENT

Mr. DELAHUNT. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until tomorrow, Thursday, September 30, 2004, at 10 a.m.

## NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
*Washington, DC, September 29, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: Section 304(b)(1) of the Congressional Accountability Act of 1995 (''Act''), 2 U.S.C. 1384(b)(1), requires that, with regard to substantive rules under the Act, that ''[t]he Board [of Directors of the Office of Compliance] shall publish a general notice of proposed rulemaking under section 553(b) of Title 5, United States Code . . . [by transmittal] to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.'' Board of Directors of the Office of Compliance is transmitting herewith the enclosed Notice of Proposed Rules implementing certain substantive rights and protections of the Fair Labor Standards Act of 1938, for publication in both the House and Senate versions of the Congressional Record on the first day on which both Houses of Congress are in session following this transmittal.

Any inquiries regarding this Notice should be addressed to the Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, DC 20540.

Sincerely,

SUSAN S. ROBFOGEL,
*Chair of the Board of Directors.*

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE

Implementing Certain Substantive Rights and Protections of the Fair Labor Standards Act of 1938, as Required by Section 203 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1313.

NOTICE OF PROPOSED RULEMAKING

Background: The purpose of this Notice is to initiate the process for replacing existing overtime pay eligibility regulations with new regulations which will substantially mirror the new overtime exemption regulations recently promulgated by the Secretary of Labor.

Do FLSA overtime pay requirements apply via the CAA to Legislative Branch employing offices? Yes. One of the regulatory statutes incorporated in part through the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1301 et seq., is the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq. Section 203(a)(1) of the CAA states: ''[t]he rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the [FLSA] . . . (29 U.S.C. 206(a)(1), 207, 212(c)) shall apply to covered employees.'' Section 7 of the FLSA, 29 U.S.C. 207, includes the requirements regarding the payment of time and one half overtime pay to employees.

Are there existing overtime exemption regulations already in force under the CAA? Yes. In 1996, the Board of Directors of the Office of Compliance promulgated the existing CAA overtime exemption regulations based on the ''old'' 29 CFR Part 541 regulations which were in force until August 23, 2004. These regulations were adopted pursuant to the CAA section 304 procedure outlined herein below. Those regulations are found at Parts H541 (applicable to the House of Representatives), S541 (applicable to the Senate), and C541 (applicable to the other employing offices covered by section 203 of the CAA) of the FLSA Regulations of the Office of Compliance. These regulations remain in force until replaced by new regulations. Office of Compliance regulations can be accessed via our web site: www. compliance. gov.

Why is this Notice being issued? This Notice of Proposed Rulemaking is occasioned by the recent promulgation of new overtime exemption regulations by the Secretary of Labor at Vol. 69 of the Federal Register, No. 79, at pp. 22122 et seq., on August 23, 2004. The new regulations of the Secretary of Labor are set out at 29 U.S.C. Part 541, and replace the regulations which had been in effect prior to August 23, 2004. The Secretary of Labor's regulations do not apply to employing offices and employees covered by the CAA.

Why are there separate sets of existing FLSA regulations for the House of Representatives, the Senate, and the other employing offices covered by the CAA? Section 304(a)(2)(B) of the CAA, 2 U.S.C. 1384(a)(2)(B),

requires that the substantive rules of the Board of Directors of the Office of Compliance ''shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—(i) the Senate and employees of the Senate; (ii) the House of Representatives and employees of the House of Representatives; and (iii) the other covered employees and employing offices.'' In 1996, the House of Representatives (H. Res. 400) and the Senate (S. Res. 242) each adopted by resolution the FLSA regulations applicable to each body. The Senate and House of Representatives adopted by concurrent resolution (S. Con. Res. 51) the regulations applicable to other employing offices and employees.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices? No. While there are some differences in other parts of the existing FLSA regulations applicable to the Senate, the House of Representatives, and the other employing offices (chiefly related to the mandate at section 203(c)(3) of the CAA, 2 U.S.C. 1313(c)(3), regarding ''covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate . . .''), the Board of Directors has identified no ''good cause'' for varying the text of these regulations. Therefore, if the proposed part 541 regulations are adopted, the prefixes ''H'', ''S'', and ''C'' will be affixed to each of the sets of regulations for the House, for the Senate, and for the other employing offices, but the text of the part 541 regulations will be identical.

How are substantive regulations proposed and approved under the CAA? Section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), requires that the Board of Directors propose substantive regulations implementing the FLSA overtime requirements which are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulation would be more effective for the implementation of the rights and protections under this section.'' Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that: (1) the Board of Directors adopt proposed substantive regulations and publish a general notice of proposed rulemaking in the Congressional Record; (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the Congressional Record; (4) committee referral and action on the proposed regulations by resolution in each House, concurrent resolution, or by joint resolution; and (5) final publication of the approved regulations in the Congressional Record, with an effective date prescribed in the final publication. For more detail, please reference the text of 2 U.S.C. 1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above.

How does the Board of Directors recommend that Congress approve these proposed regulations? Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to ''include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.'' The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: the House of Representatives adopted the ''H'' version of the regulations by resolution; the Senate adopted the ''S'' version of the regulations by resolution; and the House and Senate adopted the ''C'' version of the regulations applied to the other employing offices by a concurrent resolution.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the House of Representatives, and the Deputy Executive Director for the Senate? Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations is also recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

How are the Secretary of Labor's new overtime exemption regulations different than the old Secretary of Labor regulations at 29 CFR Part 541? The Secretary of Labor has substantially rewritten Part 541. Much of the regulatory framework for determining whether a particular employee should or should not receive overtime pay at time and one-half of that employees's regular rate of pay has been restructured under the new Part 541. For the Secretary of Labor's explanation of the substance of the changes, see the Department of Labor's discussion of the new regulations found at: www.dol.gov/fairpay/.

How similar are the proposed CAA regulations with the new Secretary of Labor regulations? Except for certain required changes, which are shown in the accompanying proposed regulations, the Board of Directors has repeated the text of the regulations at 29 CFR Part 541. ''Good cause'' for modification of the existing regulations of the Secretary of Labor, as required by section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), consists of those changes needed to reflect the authority of the CAA as the enabling statute for these regulations, the requirement at section 225(d)(3) of the CAA, 2 U.S.C. 1361(d)(3), that the CAA ''shall not be construed to authorize enforcement by the executive branch of this Act. . . .''. If there is any additional good cause for a particular proposed variation from the Secretary of Labor's regulations, it is set out adjacent to that provision of the proposed regulation.

Are these proposed CAA regulations available to persons with disabilities in an alternate format? This Notice of Adoption of Amendments to the Procedural Rules is available on the Office of Compliance web site, www.compliance.gov which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9225; TDD: 202–426–1912; FAX: 202–426–1913.

30-DAY COMMENT PERIOD REGARDING THE PROPOSED REGULATIONS

How can I submit comments regarding the proposed regulations? Comments regarding the proposed new overtime exemption regulations of the Office of Compliance set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.go) this NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to: Bill Thompson, Executive Director, or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202–724–9250 (voice) or 202–426–1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA–200, Washington, D.C. 20540–1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202–426–1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments must provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540–1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

HOW TO READ THE PROPOSED AMENDMENTS

The text of the proposed amendments reproduces the text of the regulations promulgated on August 23, 2004 by the Secretary of Labor at 29 CFR Part 541, and shows changes proposed for the CAA version of these same regulations. Changes proposed by the Board of Directors of the Office of Compliance are shown as follows: *[[*deletions within italicized brackets*]]*, ***and added text in italicized bold***. Therefore, if these regulations are approved as proposed, *[[*bracketed text will disappear from the regulations*]]*, ***and added text will remain***. If these regulations are approved for the House of Representatives by resolution of the House, they will be promulgated with the prefix ''H'' appearing before each regulations section number. If these regulations are approved for the Senate by resolution of the Senate, they will be promulgated with the prefix ''S'' appearing before each regulations section number. If these regulations are approved for the other employing offices by joint or concurrent resolution of the House of Representatives and the Senate, they will be promulgated with the prefix ''C'' appearing before each regulations section number.

PROPOSED OVERTIME EXEMPTION REGULATIONS

PART 541—DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

Subpart A—General Regulations

Sec.
541.0 Introductory statement.
541.1 Terms used in regulations.
541.2 Job titles insufficient.
541.3 Scope of the section 13(a)(1) exemptions.
541.4 Other laws and collective bargaining agreements.

Subpart B—Executive Employees

541.100 General rule for executive employees.
541.101 Business owner.

541.102 Management.
541.103 Department or subdivision.
541.104 Two or more other employees.
541.105 Particular weight.
541.106 Concurrent duties.

Subpart C—Administrative Employees

541.200 General rule for administrative employees.
541.201 Directly related to management or general business operations.
541.202 Discretion and independent judgment.
541.203 Administrative exemption examples.
541.204 Educational establishments.

Subpart D—Professional Employees

541.300 General rule for professional employees.
541.301 Learned professionals.
541.302 Creative professionals.
541.303 Teachers.
541.304 Practice of law or medicine.

Subpart E—Computer Employees

541.400 General rule for computer employees.
541.401 Computer manufacture and repair.
541.402 Executive and administrative computer employees.

Subpart F—Outside Sales Employees

541.500 General rule for outside sales employees.
541.501 Making sales or obtaining orders.
541.502 Away from employer's place of business.
541.503 Promotion work.
541.504 Drivers who sell.

Subpart G—Salary Requirements

541.600 Amount of salary required.
541.601 Highly compensated employees.
541.602 Salary basis.
541.603 Effect of improper deductions from salary.
541.604 Minimum guarantee plus extras.
541.605 Fee basis.
541.606 Board, lodging or other facilities.

Subpart H—Definitions And Miscellaneous Provisions

541.700 Primary duty.
541.701 Customarily and regularly.
541.702 Exempt and nonexempt work.
541.703 Directly and closely related.
541.704 Use of manuals.
541.705 Trainees.
541.706 Emergencies.
541.707 Occasional tasks.
541.708 Combination exemptions.
541.709 Motion picture producing industry.
541.710 Employees of public agencies.

Authority: 29 U.S.C. 213; *[[*Public Law 101–583, 104 Stat. 2871*]]*; ***2 U.S.C. 203; 2 U.S.C. 304.*** *[[*Reorganization Plan No. 6 of 1950 (3 CFR 1945–53 Comp. p. 1004); Secretary's Order No. 4–2001 (66 FR 29656).*]]*

Subpart A—General Regulations

Sec. 541.0 Introductory statement. (a) Section 13(a)(1) of the Fair Labor Standards Act (Act), as amended, ***and as applied pursuant to section 203 of the Congressional Accountability Act of 1995, 2 U.S.C. 1313,*** provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee, *[[*as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act.*]]* Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees. (b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions. (c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the Act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are also administered and enforced by the *[[*United States Equal Employment Opportunity Commission*]]* ***Office of Compliance.***

Sec. 541.1 Terms used in regulations. Act means the Fair Labor Standards Act of 1938, as amended. *[[*Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor Standards Act.*]]* ***CAA means Congressional Accountability Act of 1995, as amended. Office means the Office of Compliance. Employee means a "covered employee" as defined in section 101(3) through (8) of the CAA, 2 U.S.C. 1301(3) through (8), but not an "intern" as defined in section 203(a)(2) of the CAA, 2 U.S.C. 1313(a)(2). Employer, company, business, or enterprise each mean an "employing office" as defined in section 101(9) of the CAA, 2 U.S.C. 1301(9).***

Sec. 541.2 Job titles insufficient. A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

Sec. 541.3 Scope of the section 13(a)(1) exemptions.

(a) The section 13(a)(1) exemptions and the regulations in this part do not apply to manual laborers or other ''blue collar'' workers who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt ''blue collar'' employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees such as medical doctors, architects and archeologists. Thus, for example, non-management production-line employees and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the Fair Labor Standards Act, and are not exempt under the regulations in this part no matter how highly paid they might be.

(b)(1) The section 13(a)(1) exemptions and the regulations in this part also do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.

(2) Such employees do not qualify as exempt executive employees because their primary duty is not management of the enterprise in which the employee is employed or a customarily recognized department or subdivision thereof as required under Sec. 541.100. Thus, for example, a police officer or fire fighter whose primary duty is to investigate crimes or fight fires is not exempt under section 13(a)(1) of the Act merely because the police officer or fire fighter also directs the work of other employees in the conduct of an investigation or fighting a fire.

(3) Such employees do not qualify as exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer or the employer's customers as required under Sec. 541.200.

(4) Such employees do not qualify as exempt professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as required under Sec. 541.300. Although some police officers, fire fighters, paramedics, emergency medical technicians and similar employees have college degrees, a specialized academic degree is not a standard prerequisite for employment in such occupations.

Sec. 541.4 Other laws and collective bargaining agreements. The Fair Labor Standards Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the Act. Similarly, employers, on their own initiative or under a collective bargaining agreement with a labor union, are not precluded by the Act from providing a wage higher than the statutory minimum, a shorter workweek than the statutory maximum, or a higher overtime premium (double time, for example) than provided by the Act. While collective bargaining agreements cannot waive or reduce the Act's protections, nothing in the Act or the regulations in this part relieves employers from their contractual obligations under collective bargaining agreements.

Subpart B—Executive Employees

Sec. 541.100 General rule for executive employees.

(a) The term ''employee employed in a bona fide executive capacity'' in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary basis at a rate of

not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (3) Who customarily and regularly directs the work of two or more other employees; and (4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

(b) The phrase ''salary basis'' is defined at Sec. 541.602; ''board, lodging or other facilities'' is defined at Sec. 541.606; ''primary duty'' is defined at Sec. 541.700; and ''customarily and regularly'' is defined at Sec. 541.701.

Sec. 541.101 Business owner. The term ''employee employed in a bona fide executive capacity'' in section 13(a)(1) of the Act also includes any employee who owns at least a bona fide 20-percent percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The term ''management'' is defined in Sec. 541.102. The requirements of Subpart G (salary requirements) of this part do not apply to the business owners described in this section.

Sec. 541.102 Management. Generally, ''management'' includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

Sec. 541.103 Department or subdivision. (a) The phrase ''a customarily recognized department or subdivision'' is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer's human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function. (b) When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the enterprise. (c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization. (d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

Sec. 541.104 Two or more other employees. (a) To qualify as an exempt executive under Sec. 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase ''two or more other employees'' means two full-time employees or their equivalent. One full-time and two half-time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent. (b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers. (c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement. (d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

Sec. 541.105 Particular weight. To determine whether an employee's suggestions and recommendations are given ''particular weight,'' factors to be considered include, but are not limited to, whether it is part of the employee's job duties to make such suggestions and recommendations; the frequency with which such suggestions and recommendations are made or requested; and the frequency with which the employee's suggestions and recommendations are relied upon. Generally, an executive's suggestions and recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include an occasional suggestion with regard to the change in status of a co-worker. An employee's suggestions and recommendations may still be deemed to have ''particular weight'' even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.

Sec. 541.106 Concurrent duties.

(a) Concurrent performance of exempt and nonexempt work does not disqualify an employee from the executive exemption if the requirements of Sec. 541.100 are otherwise met. Whether an employee meets the requirements of Sec. 541.100 when the employee performs concurrent duties is determined on a case-by-case basis and based on the factors set forth in Sec. 541.700. Generally, exempt executives make the decision regarding when to perform nonexempt duties and remain responsible for the success or failure of business operations under their management while performing the nonexempt work. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. An employee whose primary duty is ordinary production work or routine, recurrent or repetitive tasks cannot qualify for exemption as an executive.

(b) For example, an assistant manager in a retail establishment may perform work such as serving customers, cooking food, stocking shelves and cleaning the establishment, but performance of such nonexempt work does not preclude the exemption if the assistant manager's primary duty is management. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. An exempt employee can also simultaneously direct the work of other employees and stock shelves.

(c) In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because the nonexempt production line employee occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is unavailable. Similarly, an employee whose primary duty is to work as an electrician is not an exempt executive even if the employee also directs the work of other employees on the job site, orders parts and materials for the job, and handles requests from the prime contractor.

Subpart C—Administrative Employees

Sec. 541.200 General rule for administrative employees.

(a) The term ''employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and (3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

(b) The term ''salary basis'' is defined at Sec. 541.602; ''fee basis'' is defined at Sec. 541.605; ''board, lodging or other facilities'' is defined at Sec. 541.606; and ''primary duty'' is defined at Sec. 541.700.

Sec. 541.201 Directly related to management or general business operations.

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. The phrase ''directly related to the management or general business operations'' refers to the type of work performed by the employee. To meet this requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) Work directly related to management or general business operations includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations, government relations; computer network, internet and database administration; legal and regulatory compliance; and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption.

(c) An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general

business operations of the employer's customers. Thus, for example, employees acting as advisers or consultants to their employer's clients or customers (as tax experts or financial consultants, for example) may be exempt.

Sec. 541.202 Discretion and independent judgment.

(a) To qualify for the administrative exemption, an employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term ''matters of significance'' refers to the level of importance or consequence of the work performed.

(b) The phrase ''discretion and independent judgment'' must be applied in the light of all the facts involved in the particular employment situation in which the question arises. Factors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the company on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term business objectives; whether the employee investigates and resolves matters of significance on behalf of management; and whether the employee represents the company in handling complaints, arbitrating disputes or resolving grievances.

(c) The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. Thus, the term ''discretion and independent judgment'' does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. For example, the policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The management consultant who has made a study of the operations of a business and who has drawn a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

(d) An employer's volume of business may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance.

(e) The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. See also Sec. 541.704 regarding use of manuals. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. An employee who simply tabulates data is not exempt, even if labeled as a ''statistician.''

(f) An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.

Sec. 541.203 Administrative exemption examples.

(a) Insurance claims adjusters generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(b) Employees in the financial services industry generally meet the duties requirements for the administrative exemption if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption.

(c) An employee who leads a team of other employees assigned to complete major projects for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(d) An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.

(e) Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who ''screen'' applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption. Such personnel clerks typically will reject all applicants who do not meet minimum standards for the particular job or for employment by the company. The minimum standards are usually set by the exempt human resources manager or other company officials, and the decision to hire from the group of qualified applicants who do meet the minimum standards is similarly made by the exempt human resources manager or other company officials. Thus, when the interviewing and screening functions are performed by the human resources manager or personnel manager who makes the hiring decision or makes recommendations for hiring from the pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(f) Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.

(g) Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well-established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

(h) Employees usually called examiners or graders, such as employees that grade lumber, generally do not meet the duties requirements for the administrative exemption. Such employees usually perform work involving the comparison of products with established standards which are frequently catalogued. Often, after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for a manual of standards does not convert the character of the work performed to exempt work requiring the exercise of discretion and independent judgment.

(i) Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.

(j) Public sector inspectors or investigators of various types, such as fire prevention or safety, building or construction, health or sanitation, environmental or soils specialists and similar employees, generally do not meet the duties requirements for the administrative exemption because their work typically does not involve work directly related to the management or general business operations of the employer. Such employees also do not qualify for the administrative exemption because their work involves the use of

skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedure to follow, or determining whether prescribed standards or criteria are met.

Sec. 541.204 Educational establishments.

(a) The term ''employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act also includes employees: (1) Compensated for services on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government) exclusive of board, lodging or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and (2) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term ''educational establishment'' means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term ''other educational establishment'' includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Factors relevant in determining whether post-secondary career programs are educational institutions include whether the school is licensed by a state agency responsible for the state's educational system or accredited by a nationally recognized accrediting organization for career schools. Also, for purposes of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase ''performing administrative functions directly related to academic instruction or training'' means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under Sec. 541.200 or under other sections of this part, provided the requirements for such exemptions are met.

Subpart D—Professional Employees

Sec. 541.300 General rule for professional employees.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and (2) Whose primary duty is the performance of work: (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term ''salary basis'' is defined at Sec. 541.602; ''fee basis'' is defined at Sec. 541.605; ''board, lodging or other facilities'' is defined at Sec. 541.606; and ''primary duty'' is defined at Sec. 541.700.

Sec. 541.301 Learned professionals.

(a) To qualify for the learned professional exemption, an employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. This primary duty test includes three elements: (1) The employee must perform work requiring advanced knowledge;

(2) The advanced knowledge must be in a field of science or learning; and (3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

(b) The phrase ''work requiring advanced knowledge'' means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

(c) The phrase ''field of science or learning'' includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other similar occupations that have a recognized professional status as distinguished from the mechanical arts or skilled trades where in some instances the knowledge is of a fairly advanced type, but is not in a field of science or learning.

(d) The phrase ''customarily acquired by a prolonged course of specialized intellectual instruction'' restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word ''customarily'' means that the exemption is also available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. Thus, for example, the learned professional exemption is available to the occasional lawyer who has not gone to law school, or the occasional chemist who is not the possessor of a degree in chemistry. However, the learned professional exemption is not available for occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.

(e)(1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association generally meet the duties requirements for the learned professional exemption. (2) Nurses. Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption. Licensed practical nurses and other similar health care employees, however, generally do not qualify as exempt learned professionals because possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations. (3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association generally meet the duties requirements for the learned professional exemption. (4) Physician assistants. Physician assistants who have successfully completed four academic years of pre-professional and professional study, including graduation from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, and who are certified by the National Commission on Certification of Physician Assistants generally meet the duties requirements for the learned professional exemption. (5) Accountants. Certified public accountants generally meet the duties requirements for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks, bookkeepers and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals. (6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a four-year specialized academic degree in a culinary arts program, generally meet the duties requirements for the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical or physical work. (7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned

professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption. (8) Athletic trainers. Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association Board of Certification generally meet the duties requirements for the learned professional exemption. (9) Funeral directors or embalmers. Licensed funeral directors and embalmers who are licensed by and working in a state that requires successful completion of four academic years of pre-professional and professional study, including graduation from a college of mortuary science accredited by the American Board of Funeral Service Education, generally meet the duties requirements for the learned professional exemption.

(f) The areas in which the professional exemption may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When an advanced specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession. Accrediting and certifying organizations similar to those listed in paragraphs (e)(1), (e)(3), (e)(4), (e)(8) and (e)(9) of this section also may be created in the future. Such organizations may develop similar specialized curriculums and certification programs which, if a standard requirement for a particular occupation, may indicate that the occupation has acquired the characteristics of a learned profession.

Sec. 541.302 Creative professionals.

(a) To qualify for the creative professional exemption, an employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual or intellectual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be ''in a recognized field of artistic or creative endeavor.'' This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of ''invention, imagination, originality or talent'' distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The duties of employees vary widely, and exemption as a creative professional depends on the extent of the invention, imagination, originality or talent exercised by the employee. Determination of exempt creative professional status, therefore, must be made on a case-by-case basis. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen-play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an ''animator'' of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may satisfy the duties requirements for the creative professional exemption if their primary duty is work requiring invention, imagination, originality or talent, as opposed to work which depends primarily on intelligence, diligence and accuracy. Employees of newspapers, magazines, television and other media are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product. Thus, for example, newspaper reporters who merely rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals. Reporters also do not qualify as exempt creative professionals if their work product is subject to substantial control by the employer. However, journalists may qualify as exempt creative professionals if their primary duty is performing on the air in radio, television or other electronic media; conducting investigative interviews; analyzing or interpreting public events; writing editorials, opinion columns or other commentary; or acting as a narrator or commentator.

Sec. 541.303 Teachers.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term ''educational establishment'' is defined in Sec. 541.204(b).

(b) Exempt teachers include, but are not limited to: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi- skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in requiring a certificate for employment as an elementary or secondary school teacher, and a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of Sec. 541.300 and Subpart G (salary requirements) of this part do not apply to the teaching professionals described in this section.

Sec. 541.304 Practice of law or medicine.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also shall mean: (1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and (2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term ''physicians'' includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of Sec. 541.300 and subpart G (salary requirements) of this part do not apply to the employees described in this section.

Subpart E—Computer Employees

Sec. 541.400 General rule for computer employees.

(a) Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

(b) The section 13(a)(1) exemption applies to any computer employee compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, and the section 13(a)(17) exemption applies to any computer employee compensated on an hourly basis at a rate not less than $27.63 an hour. In addition, under either section 13(a)(1) or section 13(a)(17) of the Act, the exemptions apply only to computer employees whose primary duty consists of: (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; (3) The design, documentation, testing, creation or modification of computer

programs related to machine operating systems; or (4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

(c) The term ''salary basis'' is defined at Sec. 541.602; ''fee basis'' is defined at Sec. 541.605; ''board, lodging or other facilities'' is defined at Sec. 541.606; and ''primary duty'' is defined at Sec. 541.700.

Sec. 541.401 Computer manufacture and repair. The exemption for employees in computer occupations does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in Sec. 541.400(b), are also not exempt computer professionals.

Sec. 541.402 Executive and administrative computer employees. Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under subpart B or subpart C of this part. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

Subpart F—Outside Sales Employees

Sec. 541.500 General rule for outside sales employees. (a) The term ''employee employed in the capacity of outside salesman'' in section 13(a)(1) of the Act shall mean any employee: (1) Whose primary duty is: (i) making sales within the meaning of section 3(k) of the Act, or (ii) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and (2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.

(b) The term ''primary duty'' is defined at Sec. 541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee's sales efforts also shall be regarded as exempt work including, for example, writing sales reports, updating or revising the employee's sales or display catalogue, planning itineraries and attending sales conferences.

(c) The requirements of subpart G (salary requirements) of this part do not apply to the outside sales employees described in this section.

Sec. 541.501 Making sales or obtaining orders.

(a) Section 541.500 requires that the employee be engaged in: (1) Making sales within the meaning of section 3(k) of the Act, or (2) Obtaining orders or contracts for services or for the use of facilities.

(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that ''sale'' or ''sell'' includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(c) Exempt outside sales work includes not only the sales of commodities, but also ''obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer.'' Obtaining orders for ''the use of facilities'' includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.

(d) The word ''services'' extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

Sec. 541.502 Away from employer's place of business. An outside sales employee must be customarily and regularly engaged ''away from the employer's place or places of business.'' The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business. Similarly, an outside sales employee does not lose the exemption by displaying the employer's products at a trade show. If selling actually occurs, rather than just sales promotion, trade shows of short duration (i.e., one or two weeks) should not be considered as the employer's place of business.

Sec. 541.503 Promotion work.

(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work. An employee who does not satisfy the requirements of this subpart may still qualify as an exempt employee under other subparts of this rule.

(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt outside sales work.

(c) Another example is a company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, sets up displays and consults with the store manager when inventory runs low, but does not obtain a commitment for additional purchases. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work is not exempt outside sales work.

Sec. 541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. In determining the primary duty of drivers who sell, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including loading, driving or delivering products, shall be regarded as exempt outside sales work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including, but not limited to: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include: (1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold. (2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases. (3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods. (4) A driver who calls on established customers along the route and persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include: (1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations.

(2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery. (3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.

Subpart G—Salary Requirements

Sec. 541.600 Amount of salary required.

(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in Sec. 541.605.

(b) The $455 a week may be translated into equivalent amounts for periods longer than one week. The requirement will be met if the employee is compensated biweekly on a salary basis of $910, semimonthly on a salary basis of $985.83, or monthly on a salary basis of $1,971.66. However, the shortest period of payment that will meet this compensation requirement is one week.

(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in Sec. 541. 204(a)(1).

(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than $27.63 an hour, as provided in Sec. 541. 400(b).

(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see Sec. 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see Sec. 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see Sec. 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

Sec. 541.601 Highly compensated employees.

(a) An employee with total annual compensation of at least $100,000 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part.

(b) (1) ''Total annual compensation'' must include at least $455 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in Sec. 541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits. (2) If an employee's total annual compensation does not total at least the minimum amount established in paragraph (a) of this section by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, an employee may earn $80,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn $20,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns $10,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least $10,000 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C or D of this part. (3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment. (4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under Sec. 541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non-management production-line workers and non management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

Sec. 541.602 Salary basis.

(a) General rule. An employee will be considered to be paid on a ''salary basis'' within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Exceptions. The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions: (1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence. (2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law. (3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption. (4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines. (5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence. (6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of

an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed. (7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

Sec. 541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in Sec. 541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best evidence of a clearly communicated policy is a written policy that was distributed to employees prior to the improper pay deductions by, for example, providing a copy of the policy to employees at the time of hire, publishing the policy in an employee handbook or publishing the policy on the employer's Intranet.

(e) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

Sec. 541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least $455 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least $455 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least $455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

(b) An exempt employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least $500 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid $150 per shift without violating the salary basis requirement. The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary of $650 per week who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

Sec. 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather than on a salary basis. An employee will be considered to be paid on a ''fee basis'' within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments resemble piecework payments with the important distinction that generally a ''fee'' is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least $455 per week if the employee worked 40 hours. Thus, an artist paid $250 for a picture that took 20 hours to complete meets the minimum salary requirement for exemption since earnings at this rate would yield the artist $500 if 40 hours were worked.

Sec. 541.606 Board, lodging or other facilities.

(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in Sec. 541.600, ''exclusive of board, lodging or other facilities.'' The phrase ''exclusive of board, lodging or other facilities'' means ''free and clear'' or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.

(b) Regulations defining what constitutes ''board, lodging, or other facilities'' are contained in 29 CFR part 531. As described in 29 CFR 531.32, the term ''other facilities'' refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work. *[[*Good cause for the inclusion of subsection (b): The regulations referenced in this paragraph at 29 CFR 531.29 are not substantive regulations, but are ''interpretive'' regulations which were not incorporated in Part 531 of the CAA regulations adopted in 1996. However, the Board of Directors has determined that, since these particular interpretive regulations are incorporated by reference in the new substantive regulations, employing offices and employees may reference these particular interpretive regulations as part of the new substantive regulations as proposed here.*]]*

Subpart H—Definitions and Miscellaneous Provisions

Sec. 541.700 Primary duty.

(a) To qualify for exemption under this part, an employee's ''primary duty'' must be the performance of exempt work. The term ''primary duty'' means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all

the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Thus, employees who spend more than 50 percent of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing in this section requires that exempt employees spend more than 50 percent of their time performing exempt work. Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.

(c) Thus, for example, assistant managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget and authorizing payment of bills may have management as their primary duty even if the assistant managers spend more than 50 percent of the time performing nonexempt work such as running the cash register. However, if such assistant managers are closely supervised and earn little more than the nonexempt employees, the assistant managers generally would not satisfy the primary duty requirement.

Sec. 541.701 Customarily and regularly. The phrase ''customarily and regularly'' means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed ''customarily and regularly'' includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

Sec. 541.702 Exempt and nonexempt work. The term ''exempt work'' means all work described in Sec. 541.100, 541.101, 541.200, 541.300, 541.301, 541.302, 541.303, 541.304, 541.400 and 541.500, and the activities directly and closely related to such work. All other work is considered ''nonexempt.''

Sec. 541.703 Directly and closely related.

(a) Work that is ''directly and closely related'' to the performance of exempt work is also considered exempt work. The phrase ''directly and closely related'' means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, ''directly and closely related'' work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's exempt work cannot be performed properly. Work ''directly and closely related'' to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not ''directly and closely related'' if the work is remotely related or completely unrelated to exempt duties.

(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work: (1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees. (2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties. (3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector. (4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non-supervisors may perform such work. However, particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work. (5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions. (6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption. (7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under Sec. 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies. (8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common-carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work. (9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants. (10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

Sec. 541.704 Use of manuals. The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

Sec. 541.705 Trainees. The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

Sec. 541.706 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An ''emergency'' does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work: (1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive. (2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work. (3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly. (4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

Sec. 541.707 Occasional tasks. Occasional, infrequently recurring tasks that cannot

practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

Sec. 541.708 Combination exemptions. Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

Sec. 541.709 Motion picture producing industry. The requirement that the employee be paid ''on a salary basis'' does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $695 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C or D of this part, and who is employed at a base rate of at least $695 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least $695 if 6 days were worked; or (b) The employee is in a job category having a weekly base rate of at least $695 and the daily base rate is at least one-sixth of such weekly base rate.

Sec. 541.710 Employees of Public Agencies. (a) An employee of a public agency who otherwise meets the salary basis requirements of section 541.602 shall not be disqualified from exemption under sections 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because: (1) Permission for its use has not been sought or has been sought or denied; (2) Accrued leave has been exhausted; (3) The employee chooses to use leave without pay. (b) Deductions from the pay of an employee of a public agency for absences due to a budget required furlough shall not disqualify the employee from being paid on a salary basis except on the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9847. A letter from the Director, Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule — Guaranteed Loans--Rescheduling Terms and Loan Subordinations (RIN: 0560-AG53) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9848. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Folpet; Pesticide Tolerance [OPP-2004-0168; FRL-7369-1] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9849. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Flumioxazin; Pesticide Tolerances [OPP-2004-0212; FRL-7369-9] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9850. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — DCPA; Pesticide Tolerance [OPP-2004-0200; FRL-7673-6] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9851. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Worker Protection Standard; Glove Liners, and Chemical-Resistant Glove Requirements of Agricultural Pilots [OPP-2003-0169; FRL-7352-3] (RIN: 2070-AC93) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9852. A communication from the President of the United States, transmitting requests for an emergency FY 2004 supplemental appropriations for the Departments of Agriculture, Commerce, Defense, Homeland Security, the Interior, Justice, Transportation, and Veterans Affairs; as well as the Corps of Engineers, International Assistance Programs, and the Small Business Administration; (H. Doc. No. 108–220); to the Committee on Appropriations and ordered to be printed.

9853. A letter from the Inspector General, Department of Defense, transmitting the results of an audit of undefinitized contractual actions that was conducted in response to Section 908(b) of the ''Continuing Appropriations for Fiscal Year 1987,'' pursuant to Public Law 99–591, section 908(b)(2) (100 Stat. 3341–140); to the Committee on Armed Services.

9854. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7837] received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9855. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Romania pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

9856. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality [AZ 126-0074a; FRL-7789-9] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9857. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — OMB Approvals Under the Paperwork Reduction Act; Final Rule [FRL-7803-6] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9858. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Primary Drinking Water Regulations: Analytical Method for Uranium [OW-2003-0067; FRL-7805-5] (RIN: 2040-AE62) received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9859. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Iowa [R07-OAR-2004-IA-0003; FRL-7805-4] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9860. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [R07-OAR-2004-MO-0002 FRL-7805-1] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9861. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Indiana; Revised Mobile Source Inventories and Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6 [R05-OAR-2004-IN-0003; FRL-7806-5] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9862. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision of Flow Control Date in Nitrogen Oxides Budget Trading Program [VA159-5083a; FRL-7805-7] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9863. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District and Mojave Desert Air Quality Management District [CA 207-0437; FRL-7804-1] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9864. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production [OAR-2004-0006, FRL-7808-4] (RIN: 2060-AK32) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9865. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Jersey; Revised Motor Vehicle Transportation Conformity Budgets [Region II Docket No. R02-OAR-2004-NJ-0002, FRL-7807-6] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9866. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Washington [WA-04-002; FRL-

7807-1] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9867. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Federally Enforceable State Operating Permit Program for Allegheny County [PA 138-4230; FRL-7807-3] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9868. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Changing the Ozone Monitoring Season in Idaho from April Through October to May Through September [Docket # ID-04-003a; FRL-7801-6] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9869. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India (Transmittal No. DDTC 057-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9870. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Canada, Norway, Ireland, and the United Kingdom (Transmittal No. DDTC 073-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9871. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on employment of U.S. citizens by certain international organizationsduring 2003, pursuant to 22 U.S.C. 276c–4; to the Committee on International Relations.

9872. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the sixth and final annual report on enforcement and monitoring of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development, pursuant to paragraph (c)(1) of the resolution of advice and consent, adopted by the United States Senate on July 31, 1998; to the Committee on International Relations.

9873. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates (RIN: 1400-AB94) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9874. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification under section 451 of the Foreign Assistance Act of 1961, as amended to provide emergency assistance for Darfur, Sudan; to the Committee on International Relations.

9875. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Memorandum of Justification under Section 610 of the Foreign Assistance Act of 1961 regarding determination to transfer FY 2004 funds appropriated for International Organizations and Programs (IO&P) to the Economic Support Fund; to the Committee on International Relations.

9876. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's (EEOC's) Year 2004 Inventories of Commercial and Inherently Governmental Activities in accordance with the Federal Activities Inventory Reform (FAIR) Act of 1998; to the Committee on Government Reform.

9877. A letter from the Archivist, National Archives and Records Administration, transmitting the FY 2004 Commercial Activities Inventory and Inherently Governmental Inventory, as required by the FAIR Act and OMB Circular A-76; to the Committee on Government Reform.

9878. A letter from the Inspector General, Nuclear Regulatory Commission, transmitting a copy of the FY 2004 Commercial and Inherently Governmental Activities Inventories for the Commission as required by the Federal Activities Inventory Reform Act of 1998 and guidance issued by the OMB; to the Committee on Government Reform.

9879. A letter from the Secretary, Department of Agriculture, transmitting a draft bill ''To designate certain National Forest System land in the State of Oregon as a component of the National Wilderness Preservation System''; to the Committee on Resources.

9880. A letter from the Director, Administrative Office of the United States Courts, transmitting a report on compliance within the time limitations established for deciding habeas corpus death penalty petitions under Title I of the Antiterrorism and Effective Death Penalty Act of 1996, pursuant to 28 U.S.C. 2266(b) and (c); to the Committee on the Judiciary.

9881. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the designation as ''foreign terrorist organizations'' pursuant to Section 219 of the Immigration and Nationality Act, pursuant to 8 U.S.C. 1189; to the Committee on the Judiciary.

9882. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft; Correction [Docket No. FAA-2001-11133; Amendment No. 91-282] (RIN: 2120-AA19) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9883. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Restricted Areas 5802C, D, and E; Fort Indiantown Gap, PA [Docket No. FAA-2003-13850; Airspace Docket No. 02-AEA-19] (RIN: 2120-AA66) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9884. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; La Junta, CO [Docket No. FAA-2003-16029; Airspace Docket No. 03-ANM-08] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9885. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Wayne, NE [Docket No. FAA-2004-17912; Airspace Docket No. 04-ACE-38] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9886. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; California City, CA [Docket No. FAA-2004-18609; Airspace Docket No. 03-AWP-15] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9887. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Northwood, ND [Docket No. FAA-2004-17094; Airspace Docket No. 04-AGL-03] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9888. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30419; Amdt. No. 3101] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9889. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Fuel Tank Safety Compliance Extension (Final Rule) and (Request for Comments); Extension of Comment Period [Docket No. FAA-2004-17681; Amendment No. 91-283, 121-305, 125-46, 129-39] (RIN: 2120-AI20) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9890. A letter from the Attorney, Office of Aviation Enf. & Proceedings, Department of Transportation, transmitting the Department's final rule — Passenger Baggage Liability (RIN: 2105-AD42) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9891. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled ''The Superfund Innovative Technology Evaluation Program: Annual Report to Congress FY 2002''; to the Committee on Science.

9892. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule — Compensation for Certain Cases of Bilateral Deafness (RIN: 2900-AL59) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9893. A letter from the Chairman and Vice-Chairman, Advisory Committee for Trade Policy and Negotiations, transmitting the ACTPN's assessment of the World Trade Organization (WTO) Doha Round framework agreement reached in Geneva at the end of July, pursuant to 19 U.S.C. 2903; to the Committee on Ways and Means.

9894. A letter from the Secretary, Department of Health and Human Services, transmitting the final report on the Implementation of the Performance-Based Incentive System, submitted in compliance with Section 201 of the Child Support Performance and Incentive Act of 1998 (CSPIA); to the Committee on Ways and Means.

9895. A letter from the Chair of the Board of Directors, Office of Compliance, transmitting Notice of Proposed Rulemaking implementing certain substantive rights and protections of the Fair Labor Standards Act of 1938, as required by Section 203 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1313, for publicationin the Congressional Record, pursuant to Public Law 104–1, section 303(b) (109 Stat. 28); jointly to the Committees on House Administration and Education and the Workforce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. S. 878. An act to authorize an additional permanent judgeship in the District of Idaho, and for other purposes; with amendments (Rept. 108–708). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 807. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–709). 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. SHAYS (for himself, Mr. LANTOS, and Ms. ESHOO):

H.R. 5162. A bill to provide for the safe and secure storage of explosive materials by State and local law enforcement agencies; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself and Mr. OBERSTAR):

H.R. 5163. A bill to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and Science, 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. LATOURETTE (for himself, Ms. NORTON, Mr. YOUNG of Alaska, and Mr. OBERSTAR):

H.R. 5164. A bill to provide a site for construction of a national health museum, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BLUNT (for himself, Mr. RYAN of Wisconsin, Mr. SANDLIN, Mr. GREEN of Wisconsin, Mrs. NORTHUP, Mr. ROGERS of Michigan, Mr. PETRI, Mr. SENSENBRENNER, Mr. KIRK, Mr. NEY, Mr. BRADY of Texas, Mr. ENGLISH, Mr. AKIN, Mr. WICKER, Mr. DUNCAN, Mr. BONILLA, Mr. STENHOLM, Mr. HERGER, and Mr. SHADEGG):

H.R. 5165. A bill to amend the Clean Air Act to reduce the proliferation of boutique fuels, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHAYS (for himself and Mr. TOWNS):

H.R. 5166. A bill to prohibit the Department of Defense from requiring members of the Armed Forces to receive the anthrax and smallpox immunizations without their consent, to correct the records of servicemembers previously punished for refusing to take these vaccines, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. SMITH of Michigan, Mr. MICHAUD, Mr. SIMPSON, Mr. OTTER, Mr. GORDON, Mr. DELAHUNT, Mr. ETHERIDGE, Mr. LAHOOD, Mr. HOLDEN, Mr. KINGSTON, Mr. BISHOP of Georgia, and Ms. KAPTUR):

H.R. 5167. A bill to extend for 18 months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. RENZI:

H.R. 5168. A bill to repeal the Bennett Freeze thus ending a gross treaty violation with the Navajo Nation and allowing the Navajo Nation to live in habitable dwellings and raise their living conditions, and for other purposes; to the Committee on Resources.

By Mr. NUSSLE (for himself, Mr. KING of Iowa, Mr. LATHAM, and Mr. LEACH):

H.R. 5169. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY of Minnesota (for himself, Mr. LATOURETTE, Mr. BOEHNER, Mr. RAMSTAD, Mr. GILLMOR, Mr. CHABOT, Ms. KAPTUR, Mr. REGULA, Mr. OXLEY, Mrs. JONES of Ohio, Ms. PRYCE of Ohio, Mr. GUTKNECHT, Mr. TIBERI, Mr. JOHNSON of Illinois, Mr. PORTMAN, Mr. TURNER of Ohio, Mr. MCINNIS, Mr. STRICKLAND, Mr. RYAN of Ohio, Mr. BROWN of Ohio, Mr. KLINE, Mr. NEY, Mr. SHIMKUS, and Mr. LAHOOD):

H.R. 5170. A bill to require the Secretary of Transportation, in computing the estimated tax payments attributed to highway users for purposes of title 23, United States Code, to take into account any law that replaces the reduced rates of tax on gasohol with an excise tax credit; to the Committee on Transportation and Infrastructure.

By Mr. PEARCE:

H.R. 5171. A bill to amend the Help America Vote Act of 2002 to ensure the same requirements that apply to voters who register by mail also apply to voters who do not register in person with an officer or employee of a State or local government entity, and to provide for increased penalties for fraudulent registration in cases involving 10 or more violations; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself, Mr. PORTMAN, and Ms. SCHAKOWSKY):

H.R. 5172. A bill to direct the Consumer Product Safety Commission to declare Yo-Yo Waterball toys to be a banned hazardous products; to the Committee on Energy and Commerce.

By Mr. BEAUPREZ:

H.R. 5173. A bill to prohibit the sale of any alcohol without liquid machine without premarket approval, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CAPUANO (for himself, Mr. KILDEE, Mr. LANGEVIN, Mr. HYDE, Mr. TOWNS, Mr. SERRANO, Mr. FRANK of Massachusetts, and Mr. VAN HOLLEN):

H.R. 5174. A bill to amend title 5 of the United States Code to increase the amount of additional compensation payable to an employee who is disabled and requires the services of an attendant, and for other purposes; to the Committee on Education and the Workforce.

By Mr. CARSON of Oklahoma:

H.R. 5175. A bill to amend title XVIII of the Social Security Act to stabilize the amount of the Medicare part B premium; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DEGETTE:

H.R. 5176. A bill to amend the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 to rename the Rocky Mountain Arsenal National Wildlife Refuge as the Pat Schroeder National Wildlife Refuge; to the Committee on Resources.

By Mrs. LOWEY:

H.R. 5177. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of universal basic education in all developing countries as an objective of United States foreign assistance policy, and for other purposes; to the Committee on International Relations.

By Mr. MORAN of Virginia:

H.R. 5178. A bill to direct the Secretary of Transportation to carry out a pilot program to improve the security of State drivers' licenses and identification cards, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OBEY:

H.R. 5179. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide for modest adjustments necessary to restore the old-age, survivors, and disability insurance program to long-term actuarial balance; to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota (for himself and Mr. BOSWELL):

H.R. 5180. A bill to extend the authority of the Livestock Mandatory Reporting Act of 1999 through October 22, 2005; to the Committee on Agriculture.

By Mr. PETRI (for himself and Mr. ANDREWS):

H.R. 5181. A bill to protect employees from invasion of privacy by employers by prohibiting certain video monitoring and audio monitoring of employees by their employers, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON of Mississippi (for himself, Mr. TURNER of Texas, Mrs. CHRISTENSEN, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Ms. NORTON, and Mr. MEEK of Florida):

H.R. 5182. A bill to amend the Homeland Security Act of 2002 to clarify the mission and responsibilities of the Department of Homeland Security with respect to the protection of civil rights and civil liberties, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI):

H.R. 5183. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Budget, Ways and Means, Resources, and Science, 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. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI):

H.R. 5184. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of

the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Budget, Ways and Means, Resources, and Science, 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. BOEHLERT (for himself, Mr. GORDON, Mr. COX, Mr. TURNER of Texas, Ms. LOFGREN, Mr. WAXMAN, and Mr. CLAY):

H. Con. Res. 502. Concurrent resolution expressing the sense of Congress with respect to raising awareness and enhancing the state of computer security in the United States, and supporting the goals and ideals of National Computer Security Awareness Month; to the Committee on Science.

By Mr. PALLONE:

H. Con. Res. 503. Concurrent resolution recognizing the 20th anniversary of the Bhopal disaster and expressing the commitment of Congress to work with the Government of India and others to ensure that Union Carbide provides environmental and medical rehabilitation of the affected area and is held responsible for its actions; to the Committee on International Relations.

By Mr. VITTER:

H. Con. Res. 504. Concurrent resolution supporting the observance of Breast Cancer Awareness Month, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILSON of South Carolina (for himself, Mr. SPRATT, Mr. CLYBURN, Mr. DEMINT, Mr. BROWN of South Carolina, and Mr. BARRETT of South Carolina):

H. Con. Res. 505. Concurrent resolution recognizing, commending, and supporting the efforts of the Celebrate Freedom Foundation; to the Committee on Armed Services.

By Mr. PENCE:

H. Res. 806. A resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. ISRAEL (for himself and Ms. DELAURO):

H. Res. 808. A resolution supporting the goals and ideals of National Ovarian Cancer Awareness Month; to the Committee on Government Reform.

By Mr. KILDEE:

H. Res. 809. A resolution supporting the goals and ideals of ''Lights On Afterschool, a national celebration of after-school programs; to the Committee on Education and the Workforce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 490: Mrs. JONES of Ohio.
H.R. 623: Mr. PLATTS.
H.R. 632: Mr. MICHAUD.
H.R. 677: Mr. LAHOOD.
H.R. 798: Mr. ANDREWS.
H.R. 918: Mr. WALDEN of Oregon, Mr. ROTHMAN, and Mr. DEAL of Georgia.
H.R. 1078: Mrs. JONES of Ohio.
H.R. 1205: Mr. HASTINGS of Florida.
H.R. 1294: Mr. PLATTS.
H.R. 1305: Mr. BISHOP of New York, Mr. BASS, Mr. HAYES, Mrs. CUBIN, and Mr. HEFLEY.
H.R. 1336: Mr. COSTELLO, Mr. DOYLE, Mrs. KELLY, Mr. BACHUS, and Mrs. CUBIN.
H.R. 1340: Mr. BACA.
H.R. 1359: Mr. PETERSON of Minnesota and Mrs. NAPOLITANO.
H.R. 1477: Ms. MILLENDER-MCDONALD and Mr. OWENS.
H.R. 1508: Mr. BERMAN.
H.R. 1523: Mr. CALVERT and Mr. CANNON.
H.R. 1631: Mr. MILLER of Florida.
H.R. 1633: Mr. MOORE.
H.R. 1639: Mr. ALLEN.
H.R. 1769: Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 1820: Mr. GILLMOR.
H.R. 1824: Mr. SHAYS.
H.R. 1859: Mr. ANDREWS.
H.R. 1873: Ms. ESHOO.
H.R. 2176: Mr. BILIRAKIS.
H.R. 2215: Mr. SMITH of Washington.
H.R. 2238: Mr. LAMPSON.
H.R. 2440: Mr. PASTOR.
H.R. 2680: Mr. BACHUS, Mr. FOLEY, Mr. LEWIS of California, Mr. LOBIONDO, Mr. MANZULLO, Mrs. MYRICK, Mr. PETRI, Mr. SMITH of New Jersey, Mrs. WILSON of New Mexico, Mr. YOUNG of Alaska, and Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 2797: Mr. DEMINT.
H.R. 2848: Mr. KOLBE.
H.R. 2900: Mrs. BIGGERT.
H.R. 2959: Mr. DOYLE.
H.R. 2971: Mr. SULLIVAN.
H.R. 3103: Mr. HALL, Mr. BOEHLERT, Mr. RYAN of Ohio, and Mrs. CAPITO.
H.R. 3242: Mr. CLYBURN, Mr. WAXMAN, Ms. ROYBAL-ALLARD, Mrs. DAVIS of California, Ms. HARMAN, Ms. MILLENDER-MCDONALD, Mrs. NAPOLITANO, Ms. PELOSI, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Ms. WATSON, Ms. LINDA T. SANCHEZ of California, and Mr. LANTOS.
H.R. 3403: Ms. ROS-LEHTINEN.
H.R. 3438: Mr. SWEENEY, Mr. GEORGE MILLER of California, Mr. JEFFERSON, and Ms. HERSETH.
H.R. 3558: Mrs. MCCARTHY of New York.
H.R. 3634: Mr. PASTOR.
H.R. 3858: Mr. COX.
H.R. 4067: Mr. ISRAEL.
H.R. 4094: Mr. OWENS and Mr. GORDON.
H.R. 4108: Mr. FRANK of Massachusetts.
H.R. 4249: Mr. JEFFERSON, Mr. MOORE, Ms. BORDALLO, Mr. CROWLEY, Ms. HARMAN, Mr. LARSEN of Washington, Ms. DELAURO, Mr. GREEN of Texas, Mr. DOYLE, Mr. DOOLEY of California, Mr. TIERNEY, Mr. OLVER, Mr. MENENDEZ, Mr. RODRIGUEZ, Mr. ANDREWS, Ms. LORETTA SANCHEZ of California, and Mr. CHANDLER.
H.R. 4283: Mr. SWEENEY.
H.R. 4351: Mr. OWENS.
H.R. 4357: Mr. MEEHAN.
H.R. 4374: Mr. OWENS.
H.R. 4391: Mr. DOOLITTLE.
H.R. 4392: Mrs. JO ANN DAVIS of Virginia.
H.R. 4395: Mr. BERRY.
H.R. 4488: Mr. ENGLISH, Mr. HERGER, and Mr. HAYWORTH.
H.R. 4595: Mr. FARR.
H.R. 4610: Mr. RAHALL.
H.R. 4616: Mr. PETERSON of Minnesota.
H.R. 4662: Mr. GREEN of Wisconsin.
H.R. 4686: Ms. BALDWIN.
H.R. 4730: Mr. RAHALL.
H.R. 4776: Mr. PLATTS.
H.R. 4782: Mr. COLE.
H.R. 4839: Mr. FROST.
H.R. 4849: Mr. LEWIS of Kentucky.
H.R. 4927: Mr. MCDERMOTT.
H.R. 4931: Mr. SOUDER.
H.R. 4936: Mr. SCHIFF, Mrs. LOWEY, Mr. STRICKLAND, Mr. DAVIS of Florida, Mrs. CAPITO, Mr. WICKER, Mr. MARSHALL, Mr. STARK, Ms. BALDWIN, Mr. EMANUEL, Ms. HERSETH, and Mr. ALLEN.
H.R. 4978: Mr. OWENS.
H.R. 5023: Mr. HINCHEY.
H.R. 5057: Mr. FILNER, Ms. BERKLEY, Mr. CONYERS, Mr. ORTIZ, Mr. HOSTETTLER, Mr. WILSON of South Carolina, Mrs. JO ANN DAVIS of Virginia, Mr. BURR, Mrs. LOWEY, and Mr. RODRIGUEZ.
H.R. 5061: Ms. SCHAKOWSKY, Mr. KENNEDY of Rhode Island, Mr. ACKERMAN, Mr. AKIN, Mr. JACKSON of Illinois, Mr. PASTOR, Mr. MCDERMOTT, Ms. MCCOLLUM, and Mr. BLUMENAUER.
H.R. 5068: Ms. MCCARTHY of Missouri, Mr. LAMPSON, and Mr. GIBBONS.
H.R. 5069: Mr. LAMPSON and Mr. GIBBONS.
H.R. 5126: Mr. FRANK of Massachusetts and Mr. EMANUEL.
H.R. 5144: Mr. FORD and Mr. ISAKSON.
H.R. 5150: Mr. BLUMENAUER, Mr. COOPER, Ms. HARMAN, Mr. SANDLIN, Mr. DOOLEY of California, Ms. MCCOLLUM, and Mr. KIND.
H.J. Res. 28: Mr. WYNN and Mr. BUTTERFIELD.
H.J. Res. 56: Mr. MCKEON and Mr. BISHOP of Georgia.
H.J. Res. 106: Mr. BARTON of Texas, Mr. BACHUS, Mr. BOEHNER, Ms. GINNY BROWN-WAITE of Florida, Mr. BURR, Mr. COLE, Mr. CANNON, Mr. CANTOR, Mr. COLLINS, Mr. DEAL of Georgia, Mr. DOOLITTLE, Mrs. EMERSON, Mr. FLAKE, Mr. HALL, Ms. HART, Mr. HERGER, Mr. HULSHOF, Mr. ISAKSON, Mr. KELLER, Mr. MILLER of Florida, Mrs. NORTHRUP, Mr. NEY, Mr. PEARCE, Mr. PETERSON of Minnesota, Mr. PICKERING, Mr. ROGERS of Kentucky, Mr. STENHOLM, and Mr. WAMP.
H. Con. Res. 239: Mr. VAN HOLLEN.
H. Con. Res. 285: Ms. KILPATRICK.
H. Con. Res. 330: Mr. SABO and Mr. ANDREWS.
H. Con. Res. 431: Mr. TANCREDO.
H. Con. Res. 476: Mr. RANGEL, Mr. CONYERS, and Ms. LEE.
H. Res. 550: Mr. UDALL of New Mexico.
H. Res. 601: Ms. JACKSON-LEE of Texas.
H. Res. 682: Mr. BELL and Mr. TERRY.
H. Res. 751: Mr. BERMAN, Mr. SHERMAN, Mr. ENGEL, Mr. ROHRABACHER, Mr. TANCREDO, and Mr. ISSA.
H. Res. 768: Mr. KUCINICH, Mr. VAN HOLLEN, and Mrs. MALONEY.
H. Res. 782: Ms. WOOLSEY, Mr. MCDERMOTT, Ms. SOLIS, Mr. MICHAUD, and Mr. STARK.
H. Res. 793: Mr. FROST and Mr. SHERMAN.

## PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

115. The SPEAKER presented a petition of the Tobacco Task Force and the Committee on Agriculture and Small Business of the General Assembly of the Commonwealth of Kentucky, relative to a resolution expressing full support for the implementation of a fair and equitable tobacco buyout program to compensate tobacco growers and quota owners for their loss; petitioning for the provision of an economic stimulus for the Commonwealth of Kentucky; and petitioning the President and Congress of the United States to support and enact legislation to establish such a buyout program for the tobacco industry; to the Committee on Agriculture.

116. Also, a petition of the City of Lauderdale Lakes Commission, Florida, relative to Resolution No. 04-107 petitioning the Congress of the United States to help cities protect children and animals by enacting legislation which requires the addition of the bittering agent known as denationium benzoate to engine coolant and antifreeze compounds which contain ethylene glycol; to the Committee on Energy and Commerce.

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

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# Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign Ruler of the Universe, today we sense that our battles are not simply with flesh and blood. We war against principalities and powers. Thank You for providing us with spiritual weapons to defeat carnal foes.

Forgive us when we chase the temporary and flee from the permanent. Empower us to capture our thoughts and actions, making them subject to Your will.

Give our lawmakers today an awareness of the complexity of the great controversy between good and evil. Speak to them when they look to You for guidance. Remind them that truth crushed to earth will rise again. Bless our military sons and daughters in harm's way. We pray this in Your powerful Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Massachusetts.

## ORDER OF PROCEDURE

Mr. KENNEDY. Mr. President, I note that our leaders are talking. Obviously, the tradition is to recognize or permit them to address the Senate, but I would like to speak just for a few moments this morning on a matter.

Mr. REID. Mr. President, I have a unanimous consent request. Will the Senator yield for a unanimous consent request?

Mr. KENNEDY. Yes.

Mr. REID. Mr. President, I ask unanimous consent that when the leaders finish their statements, that Senator KENNEDY be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the intelligence reform bill. As our colleagues know, several amendments are currently pending to the bill, including the Specter intelligence consolidation amendment. We do hope to reach a time agreement on that amendment this morning, allowing us to vote on the Specter amendment. I know Senator SPECTER is here. I hope we make real progress on that amendment this morning. Hopefully, we can have a vote sometime this morning. The chairman and ranking member, of course, will be here to work through pending amendments as well as those that may be offered today.

I was just talking to the Democratic leader. We are going to have votes throughout the day, as we continue to move forward on this bill. In addition, because of a number of amendments we know we have to consider and will consider—I do not know the entire range—it is very likely that we will need to continue to work throughout today, tomorrow, possibly Friday, and we cannot rule out having votes on Friday, and indeed on Monday. Many times we try to schedule votes such that we pay deference to individual Senators' schedules, and we will try to do that as well.

On the other hand, as we all know, we are going to depart on October 8, and with that we have a huge amount of business to do, with this very bill, the single greatest reform bill on intelligence in the last 50 years, and we need to continue to work with the extensions, the continuing resolution, address transportation, address welfare, and have the appropriations bills as well. So from a scheduling standpoint, I ask for real consideration by our colleagues in that we need to move expeditiously, get the amendments to the floor, and have them appropriately debated.

Mr. DASCHLE. Mr. President, will the majority leader yield for a question?

Mr. FRIST. I am happy to yield.

Mr. DASCHLE. Mr. President, the majority leader and I have been talking the last couple days with regard to the schedule for this particular bill. I would ask the majority leader if he could again indicate his desire, and certainly one that I can support, which would set in motion a series of events requiring today that all amendments be listed; that is, we would have a finite list, and that by tomorrow all amendments be filed, and that at some point in this debate, in the next couple of days, all amendments be offered.

I think it is very important for us to have a clear understanding of the universe of amendments that are there. If we get that finite list this morning, or sometime through the earlier part of the day, and then the order requiring that all amendments be filed so we know exactly what the language is for those amendments, and then offered, we would be in that position.

I ask the majority leader if that is his intent. And we could work through the day with that expectation in mind.

Mr. FRIST. Mr. President, through the Chair, in response, as we discussed yesterday, if we could get the list of amendments, I think we said by about 10 o'clock this morning—and I think those lists have been coming in—and the filing deadline, let's discuss 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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over the course of the morning. It would be great if we could do it even late today so we could work on those over the course of tonight. But, again, we defer to leadership and the managers, but it would be great to have that language. That would give people from last night over the course of today to finalize that language. So I agree weakheartedly.

I would just suggest that maybe we could have that filing deadline sometime today or this evening and have staff work over the course of the day rather than tomorrow. Again, it is just so that we can see what the universe is and we can systematically put a little bit of a sense of urgency on getting people to focus on the bill itself. But I agree wholeheartedly, let's have a list here in the next 20 minutes or so, and then mutually establish a filing deadline by which we can actually see the language.

Mr. DASCHLE. I would just ask the majority leader if it is his view as well, since these amendments require legislative drafting, that all Senators ought to understand that the period for drafting these amendments could expire as early as tomorrow. So they need to get their amendments to legislative counsel to make sure they are in concert with the pending bill. I ask if the majority leader shares that view.

Mr. FRIST. Mr. President, I do. I think our colleagues can tell from the dialog going on that we, as leadership, are trying to give a framework to accelerate the process that is currently underway in discussing a very important bill. Our colleagues have met in various caucuses. I know a lot of our Members on this side of the aisle are meeting right now, and we are putting forth the same message to bring those amendments forward. And the managers will process those in an orderly way.

Mr. President, I want to very briefly comment on the bill. We received yesterday the administration's statement of policy that is in support of the Collins-Lieberman bill. I think that was a very important statement for us to receive to show the administration's strong support. In the expression of support, and support for passage of the Collins-Lieberman bill, there were comments made about certain provisions about which they have caution flags. That will be addressed appropriately on the floor of the Senate.

So I am glad we received the letter yesterday. It allows us to address many of those concerns through debate and amendment over today and tomorrow and the next several days.

The administration specifically backs the creation of a national intelligence director with—and I quote from the letter—''full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community, including statutory authority for the newly created National Counterterrorism Center.''

I mention that because it shows the huge support for reform. There is nothing really that new about the reform. There have been 13 reports, national commissions over the last 10, 15, 20 years, 13 different ones urging intelligence reform. Now it is on the floor of the Senate. Indeed, we will accomplish that.

I do want to stress that we have both the reform of the executive branch, which is mainly the Collins-Lieberman bill, but we also have the internal reform within this body itself for oversight. Both of those, of course, were recommendations of the 9/11 Commission. The Democratic leader and I have a task force working on the internal reform. Both of those elements of reform are going to be dealt with before we depart. That is a lot of business to accomplish, and that is why there is a sense of urgency in moving along.

Yesterday, we voted on a number of amendments, including the McCain amendment and the Hutchison amendment. We will see more provisions of the McCain-Lieberman bill come through with amendments to be addressed on the Senate floor as they look at specific 9/11 recommendations.

We do want to do this expeditiously. After we pass the bill, we have to go to the conference with the House and work out any differences between the two bills.

I also want to mention briefly the news that came out regarding the FBI and the shortage of linguists to translate intelligence materials. That sort of news is alarming. After 9/11, we know we can't be behind the curve. Our enemies are smart. They are clever, resourceful. We have seen it time and again. We need an intelligence system that will block them at every turn. It is my hope that the Collins-Lieberman legislation will help address this problem. The recruitment of linguists is specifically cited as one of the issues the bill seeks to address.

Moreover, in the bill the new national intelligence director will have the authority to prioritize and allocate resources appropriately. Clearly, this issue would likely fall under that person's purview. Whether it is strengthening the FBI or buttressing the CIA or integrating our intelligence capabilities, these are among the many reasons we have to move with deliberate speed to finish this legislation. Nothing less than America's national security is at stake.

I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

## INTELLIGENCE REFORM

Mr. DASCHLE. Mr. President, in discussing these matters with the majority leader, there is somewhat of a rare consensus here that the two matters he has raised once again this morning are critical, not only to this body but to the country, and must be addressed prior to the time we leave. The bill currently pending, managed so well by Senators COLLINS and LIEBERMAN, and the task force and the effort to reorganize the legislative branch creating greater oversight and clearer lines of responsibility for intelligence are critical matters and high priorities. I hope we can continue to keep the discipline and focus on this legislation until we have successfully completed it.

I am optimistic, given the cooperation and the degree of comity on these matters, that we can complete our work, but I do believe it is going to take the kind of schedule that the majority leader and I addressed a moment ago.

## OUR RESPONSIBILITY TO AMERICA'S HEROES

Mr. DASCHLE. Mr. President, over the past 4 years, as we have watched the heroism of our men and women in uniform, our Nation has gained a new awareness for the service and sacrifice of American soldiers. In communities all across our country, Americans are praying for the safe return of loved ones serving abroad. They are sending letters and care packages and small reminders of home. But they are counting the days until they can show the thanks they feel and our soldiers deserve face to face.

Few values bring Americans more closely together than our gratitude and respect for the men and women who serve in uniform to protect us. And today, all America is united in gratitude for the service of our Armed Forces and for the many sacrifices their families must make to accommodate their absence.

Regrettably, there are troubling signs that the tremendous burdens we have placed on their shoulders have begun to come at a cost. In recent weeks, we have learned that the National Guard and Reserves are having difficulty recruiting and retaining enough soldiers to defend our country. For the first time in a decade, the Army Guard is unable to meet its requirement for 350,000 soldiers. Too many soldiers are leaving and recruiting can't keep up.

A regular survey of reservists has found that the percentage of Army Reserve members who plan to reenlist has fallen from 69 percent in May 2003 to 59 percent in May 2004. There can be no doubt, the stress of long deployments and active duty are having an effect on recruiting.

Increasingly, our national security is put in the hands of the citizens soldiers of our National Guard and Reserve. When recruitment for the Guard and Reserve falls off, it threatens to undermine the readiness and the effectiveness of our Armed Forces. Let there be no doubt: Now more than ever, we need our Armed Forces to be strong and prepared enough to meet the threats we face today and those we may see tomorrow.

Earlier in the week, the New York Times reported that the Army is considering cutting the length of its 12-month combat tours in Iraq and Afghanistan in order to relieve the stress of duty. This could be a positive step. Special attention also needs to be paid to considering new ways to honor the service of our reservists and offer new incentives for signing up. The debt we owe our soldiers shouldn't be limited to a welcome-home parade. It begins before we send them abroad and it shouldn't end when they return home. This is a debt we must honor every day.

But consider the welcome home thousands of Guard members received when they returned stateside recently only to find they had lost their jobs while they were fighting in Iraq. Over the past 3 years, thousands of Guard members and reservists have come home to find themselves out of work.

Ron Vander Wal, a member of South Dakota Guard's 200th Engineer Company had to sue his employer just to get his old job back. Ron is now back at work, but he never should have had to go to court to get what was rightfully his.

Thousands more aren't as fortunate. And every time a soldier returns home to find that he has less than when he left to fight, we have failed that soldier. How can we ask our soldiers to fight for us overseas and then force them to fight for their jobs once they get home? Sadly, this is only the tip of the iceberg.

More than 400,000 reservists and National Guard members have been mobilized since September 11, 2001. They represent 40 percent of our forces in the region. Their bravery and professionalism have been vital to every aspect of our mission in Iraq. Many of them have been working to improve the lives and health of average Iraqis. And yet, when they return, one out of every five Guard members and Reservists—and 40 percent of junior enlisted personnel—will have no health insurance of their own. That is simply unacceptable.

This kind of neglect is regrettably reflected in our treatment of veterans, as well. Last month, I spoke to a woman from Hartford, SD, whose father served in the Navy—in Vietnam and elsewhere. Recently, her father died, and in his final months the family struggled with the VA to get the benefits he needed. This woman became quite frustrated with the VA and its ability to care for veterans. Today, this woman who loves her country and is proud of her father's service says she will advise her children against joining the military, because she feels our country just doesn't take care of its vets in their hours of greatest need.

That is intolerable. Not only is it morally wrong not to honor the service of our veterans, but it directly affects our ability to recruit the next generation of American heroes. Something needs to be done.

Let there be no doubt, the problems with the VA health system are not the fault of the doctors and nurses and the other men and women who work at VA hospitals and clinics. They are among the most talented, most dedicated health professionals in this country. But they can only do so much with the resources they are given. And from the first days of this administration, the White House has systematically tried to reduce veterans benefits, cut funding to the VA, and shortchange the healthcare of America's veterans.

Over the past 4 years, the budget for veterans health has risen far less than has the cost of delivering health care, forcing VA hospitals to meet rising demand with shrinking resources. The White House's 2005 budget deepens this trend by including less than a one-tenth of one percent funding increase, while health costs nationwide are rising at double digit rates of inflation. Overall, the White House budget falls nearly $4.3 billion short of veterans' needs, according to the independent budget created by leading nonpartisan veterans groups.

The veterans least able to pay are being asked to pick up the difference. Over the course of the last 3 years, the amount vets have paid toward their own care has increased a staggering 340 percent, or $561 million. And if the White House gets its way, vets would need to pick up more than a half billion dollars more of their care in 2005.

This is wrong. Americans treasure their freedom and we treasure those who have sworn to defend it. The kind of treatment our veterans and reservists are receiving defies the gratitude Americans feel in their hearts and betrays our tradition of caring for those who wore the uniform of their country.

There are two steps Congress should take immediately. First, we should pass the National Guard and Reservist Bill of Rights which I introduced earlier this month. This bill codifies a set of rights the men and women serving in our National Guard and Reserve have earned with their service to our Nation. It states that every reservist has the right to straight answers about his or her deployments, and deployments that are no longer than those of full-time soldiers; the right to the best equipment the Nation has to offer; the right to adequate, timely, and problem-free compensation; the right to child care for his or her family; the right to quality, affordable health care; the right to employment when he or she returns home; the right to education benefits; the right to a fair retirement plan; and the right to representation at the highest levels of the Department of Defense. Perhaps most important, this bill of rights would ensure that the Guard and Reserve remain attractive opportunities for Americans who want to serve their country.

Second, it is time we made good on a simple promise to veterans: If you wore the uniform of our Nation, if you fought under our flag, your health care needs will be met for life. The full funding of veterans health care should be made mandatory under law. For too long, the VA budget has been subject to the give and take of budget politics. We need to set things straight. The funding for the VA should no longer be set by political convenience, or backroom deals, or the zero-sum game of budget politics. One thing, and one thing alone, should govern the care of our veterans; that is, the needs of our veterans.

How could we do otherwise? How could we let our country move forward and leave behind the men and women whose bravery has won our freedom and prosperity? Moreover, how could we let our children grow up believing that our Government fails to honor and repay those who risk their lives in service to the Nation.

We cannot afford to wake up one day and discover that our military lacks the manpower it needs to defend our country. The signs of an impending recruitment crisis are all around us. We should not let this Congress adjourn without taking real steps to prevent this developing problem from undermining the strength of our military for years to come. It is time to act.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

## ORDER OF PROCEDURE

Mr. FRIST. Mr. President, very quickly, I understand the Senator from Massachusetts will be recognized shortly. I ask him, is he going to be speaking on the underlying bill?

Mr. KENNEDY. I will be speaking about issues that are included in the underlying bill.

Mr. FRIST. I will ask that following the Senator's time we be given a like amount of time to comment on whatever subject it would be. Then I encourage that we would be able to go straight to the underlying bill. We have the managers here, and I know the Senator has a statement he wants to make.

I ask unanimous consent that Senator KYL follow Senator KENNEDY, with a similar amount of time to respond on the topic, whatever it may be, and we will go straight to the bill. I want to encourage us to stay on the underlying bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

## POLICY IN IRAQ

Mr. KENNEDY. Mr. President, I thank the leader and the leadership. I know the matters we have before us are of great importance and urgency. So is the matter about which I will address the Senate.

By any reasonable standard, our policy in Iraq is failing. We are steadily losing ground in the war. Even after

9/11, it was wrong for this President or any President to shoot first and ask questions later, to rush to war and ignore or even muzzle serious doubts by experienced military officers and experienced officials in the State Department and the CIA about the rationale and justification for the war, and the strategy for waging it.

We all know that Saddam Hussein was a brutal dictator. We have known it for more than 20 years. We are proud, very proud, of our troops for their extraordinary and swift success in removing Saddam from power.

But as we also now know beyond doubt, Saddam did not pose the kind of immediate threat to our national security that could possibly justify a unilateral, preventive war without the broad support of the international community. There was no reason whatsoever to go to war when we did, in the way we did, and for the false reasons we were given.

The administration's insistence that Saddam could provide nuclear material or even nuclear weapons to al-Qaida has been exposed as an empty threat. It should have never been used by President Bush to justify an ideological war that America never should have fought.

Saddam had no nuclear weapons. In fact, not only were there no nuclear weapons, there were no chemical or biological weapons either, no weapons of mass destruction of any kind.

Nor was there any persuasive link between al-Qaida and Saddam and the 9/11 attacks. A 9/11 Commission Staff Statement put it plainly:

> Two senior bin Laden associates have adamantly denied that any ties existed between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

The 9/11 Commission Report stated clearly that there was no ''operational'' connection between Saddam and al-Qaida.

Secretary of State Colin Powell now agrees that there was no correlation between 9/11 and Saddam's regime. So does Secretary of Defense Donald Rumsfeld. Nevertheless, President Bush continues to cling to the fiction that there was a relationship between Saddam and al-Qaida. As the President said in his familiar Bush-speak, ''The reason that I keep insisting that there was a relationship between Iraq and Saddam and al-Qaida is because there was a relationship between Iraq and al-Qaida.''

That's the same logic President Bush keeps using today in his repeated stubborn insistence that the situation is improving in Iraq, and that we and the world are safer because Saddam is gone.

The President and his administration continue to paint a rosy picture of progress in Iraq. Just last Wednesday, he referred to the growing insurgency as ''a handful of people.'' Some handful.

Vice President CHENEY says we're ''moving in the right direction,'' despite the worsening violence. Our troops are increasingly the targets of deadly attacks. American citizens are being kidnapped and brutally beheaded.

But Secretary Rumsfeld says he's ''encouraged'' by developments in Iraq.

Our colleague Senator LINDSEY GRAHAM doesn't buy that, and he has said so clearly: ''We do not need to paint a rosy scenario for the American people.''

Neither does our colleague Senator HAGEL, a Vietnam veteran and a member of the Senate Foreign Relations Committee. As he stated unequivocally last week, ''I don't think we're winning . . . The fact is, we're in trouble. We're in deep trouble in Iraq.''

The National Intelligence Estimate in July, although not yet made public, made this point as well—and made it with such breathtaking clarity that for the good of our country, officials leaked it to the press. The New York Times said the estimate ''spells out a dark assessment of prospects for Iraq.'' The same Times report and other reports, the National Intelligence Estimate outlines three different possibilities for Iraq through the end of next year. The worst-case scenario is that Iraq plunges into outright civil war. The best-case scenario—the best case—is that violence in Iraq continues at current levels, with tenuous political and economic stability.

President Bush categorically rejected that analysis, saying the CIA was ''just guessing.'' Last week, he retreated somewhat. He said he should have used ''estimate'' instead of ''guess.''

In other words, the best case scenario between now and the end of 2005 is that our soldiers will be bogged down in a continuing quagmire with no end in sight. President Bush refused to give the time of day to advice like that by the best intelligence analysts in his administration, but the American people need to hear it.

We learned in yesterday's New York Times that the President was also warned by intelligence officials before the war that the invasion could increase support for political Islam and result in a deeply divided society in Iraq, a society prone to violent internal conflict. Before the war, President Bush received a report that warned of the possible insurgency.

It is listed on the front page of the New York Times. Just to mention part of the story:

> ''The same intelligence unit that produced a gloomy report in July about the prospects of growing instability in Iraq warned the Bush administration about the potentially costly consequence of an American-led invasion 2 months before the war began,'' Government officials said Monday. The assessments predicted that an American-led invasion of Iraq would increase support for political Islam and would result in a deeply divided Iraq society prone to violent internal conflict. The assessment also said a war would increase sympathy across the Islamic world for some terrorist objectives, at least in the short run.

That is the warning this President had, but he rushed headlong into the war with no plan to win the peace. Now, despite our clear failures, the President paints a rosy picture. Look at today's national newspapers. The Washington Post, on the front page, says:

> Growing Pessimism on Iraq. A growing number of career professionals within the national security agencies believe that the situation in Iraq is much worse, and the path to success much more tenuous, than is being expressed in public by top Bush administration officials. . . .
>
> ''While President Bush, Defense Secretary Donald H. Rumsfeld and others have delivered optimistic public appraisals, officials who fight the Iraqi insurgency and study it at the CIA and State Department and within the Army officer corps believe the rebellion is deeper and more widespread than is being publicly acknowledged,'' officials say.
>
> People at the CIA ''are mad at the policy in Iraq because it's a disaster, and they're digging the hole deeper and deeper. . . .''
>
> ''Things are definitely not improving.''

When is the President going to level with the American people?

In the New York Times today—these are in the last 2 days, Mr. President—on the front page it says: ''Baghdad,'' and this is a different story:

> Over the past 30 days, more than 2,300 attacks by insurgents have been directed against civilians and military targets in Iraq, in a pattern that sprawls over nearly every major population center outside the Kurdish north, according to comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.
>
> The sweeping geographical reach of the attacks . . . suggests a more widespread resistance than the isolated pockets described by the Iraqi government officials.

The outlook is bleak, and it is easy to understand why. It is because the number of insurgents has gone up. The number of their attacks on our troops has gone up. The sophistication of the attacks has gone up. The number of our soldiers killed or wounded has gone up. The number of hostages seized and even savagely executed has gone up.

Our troops are under increasing fire. More than 1,000 of America's finest young men and women have been killed. More than 7,000 have been wounded. In August alone, we had 863 American casualties. Our forces were attacked an average of 70 times a day, higher than for any month since President Bush dressed up in a flight suit, flew out to the aircraft carrier, and recklessly declared, ''Mission accomplished'' a year and a half ago.

The President, the Vice President, the National Security Council, Secretary Rumsfeld, and other civilian leaders in the Pentagon failed to see the insurgency that took place last year and that began to metastasize like a deadly cancer. How could they have not noticed?

Perhaps because they were still celebrating their ''mission accomplished.''

For 2 years, terrorist cells in Iraq have been spreading like cancer. Any doctor who would let that happen to a patient would be guilty of malpractice.

In many places in Iraq today, it is too dangerous to go out even with guards. The streets are so dangerous that some parents are apparently keeping their children home from school, afraid they will be kidnapped, or worse, along the way.

The State Department does not attempt to conceal the truth about the danger, at least in its travel warnings. Its September 17 advisory states that Iraq remains very dangerous.

At the end of August, a bloody 3-week battle in Najaf ended with an agreement that U.S. troops would give up the city. Fallujah and now other cities are no-go zones for our troops, presumably to avoid even greater casualties, until after the election.

Those are not the only areas where we have lost control. Last Friday, Secretary Powell said:

> We don't have government control, or government control is inadequate, in Samarra, Ramadi, Erbil and a number of other places.

We continue to use so-called precision bombing in Iraq, even though our bombs cannot tell whether it is terrorists or innocent families inside the buildings they destroy.

What is helping to unite so many Iraqi people in hatred of America is this emerging sense that America is unwilling, not just unable, to rebuild their shattered country and provide for their basic needs. Far from sharing President Bush's unrealistic rosy view, they see close up that their hopes for peace and stability are receding every day.

Inevitably, more and more Iraqis believe that attacks on American forces are acceptable, even if they would not resort to violence themselves. For every mistake we make, for every innocent Iraqi child we accidentally kill in another bombing raid, the ranks of the insurgents climb, and so does their fanatical determination to stop at nothing to drive us out.

An Army reservist described the deteriorating situation this way:

> For every guerrilla we kill with a smart bomb, we kill many more innocent civilians and create rage and anger in the Iraqi community. This rage and anger translates into more recruits for the terrorists and less support for us.

The Iraqi people's anger is also fueled by the persistent blackouts, the power shortages, the lack of electricity, the destroyed infrastructure, the relentless violence, the massive lack of jobs and basic necessities and services.

By any reasonable standard, our policy is failing in Iraq. The President should level with the American people. He should take off his rose-colored glasses, understand the truth, and tell the truth. The American people and our soldiers in Iraq deserve answers to the questions they have about the war: Will President Bush come to the Presidential debate tomorrow prepared to answer the hard questions? Will he admit that we are on a catastrophic path in Iraq? Will he admit that we rushed to a $200 billion war with no plan to win the peace? Will he offer a concrete plan to correct our course?

We are steadily losing ground in the war. No amount of campaign spin can obscure those facts. We have to do better. November 2 is our chance. This President had his chance in Iraq. We deserve a new call, and I believe we will have it on November 2.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Arizona has 14 minutes 15 seconds.

## IRAQ

Mr. KYL. Mr. President, I am going to respond to my colleague from Massachusetts. He has made a pretty vicious attack, I would say, on the President of the United States, contending that he has not leveled with the American people, that he has to begin telling the truth about what is going on in Iraq. These are very serious charges, and I would like to try to respond to them.

The Senator from Massachusetts began by a recitation of why, in his view, ''the outlook is so bleak,'' to use his quotation, and why he concluded that ''we're losing the war,'' another quotation from the Senator.

I see in the Senator's remarks, and others that I have heard recently, a steely determination to keep hopelessness alive. I do not think that should be the policy of the United States. The President has a much better vision about how to bring the war against militant Islam to a conclusion.

There were no constructive alternatives, as my colleagues will recall, from the comments of the Senator from Massachusetts. There were no ideas about how we could do better. It was just an attack on the President and an assertion that we are losing the war, the implications of which were left hanging.

When he said the President has this attitude of shooting first and asking questions later, then perhaps we need to recall that we have already been attacked. We did not shoot first. We were attacked viciously on 9/11 and it changed everything about our approach to the war against militant Islam.

Secondly, when the Senator from Massachusetts accuses the President of painting a rosy picture and then refers to the National Intelligence Estimate that predicted some pretty dire consequences, he forgets two things. First, President Bush has said repeatedly from the very beginning that this would be a very long and difficult conflict. He has never wavered from that. In fact, he has tried to inspire the American people to continue to persevere in this war.

One does not inspire people by wringing their hands and talking about how we are losing the war. Think about what kind of a message that sends to the troops and to the families who are sacrificing, to a mom who gets notice that her young son has been killed in Iraq: We are losing the war. It is hopeless. The outlook is bleak.

Well, what are we fighting for? What kind of a message does it send to our allies, who some people say they could convince to come into this conflict, we are losing the war, now please come in? That is not exactly going to persuade them to come into the conflict.

Finally, and most importantly, what kind of a message does it send to the enemy to suggest that they are winning and we are losing? Major political figures in this country argue that we are losing the war. It gives confidence to the enemies. That is exactly what they want to hear. Osama bin Laden has said we are the weak horse and he is the strong horse. If we convey that message to him, we increase the possibility that he will continue to think he can win and that he will continue to engage in this fight.

We need to break his will. He is testing our will and comments such as this are not helpful to challenging the American people to continue to persevere in this contest.

The question is about the American will, and I do not think the comments we heard from the Senator from Massachusetts are going to be effective in helping to sustain that will. I rather think the approach that Winston Churchill took in World War II accentuating the positive, yes, but not ignoring the negative and challenging the British people and the people of the Allies to persevere in that war is the right approach, and that is what President Bush has tried to do.

The Senator from Massachusetts has confused a couple of issues. First, he confuses violence in Iraq with less security at home. I do not think we are less secure at home because there is violence in Iraq. In fact, one of the reasons we have not been attacked at home for over 3 years is because we have taken the fight to the enemy and we have largely been successful. We have not lost a battle in this war.

There are battles yet to be fought, and the enemy attacks us with guerilla tactics, but we can persevere and win militarily. So I do not think we should confuse the fact that there is violence in Iraq and therefore conclude we are less secure at home. That is simply not true.

Secondly, the Senator from Massachusetts alleges that there was no relationship, no connection, between the terrorists and the Saddam Hussein regime. I want to try to debunk this myth right now, so let me quote from the CIA, from the 9/11 Commission, and from George Tenet's assessment since we are going to be quoting the National Intelligence Estimate. This is what the head of the CIA, George Tenet, said:

> Our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability. Some of the information we have received comes from detainees, including some of high rank.
>
> We have solid reporting of senior level contacts between Iraq and al-Qaida going back a decade.

No relationship? According to the CIA, not true.

Continuing to quote:

Credible information indicates that Iraq and al-Qaida have discussed safe haven and reciprocal nonaggression.

Since Operation Enduring Freedom, we have solid evidence of the presence in Iraq of al-Qaida members, including some that have been in Baghdad.

We have credible reporting that al-Qaida leaders sought contacts in Iraq who could help them acquire WMD capabilities. The reporting also stated that Iraq has provided training to al-Qaida members in the areas of poisons and gases and making conventional bombs.

Iraq's increasing support to extremist Palestinians, coupled with growing indications of a relationship with al-Qaida, suggest that Baghdad's links to terrorists will increase, even absent U.S. military action.

No relationship? No contacts? No connection? Read the intelligence reports.

What did the 9/11 Commission say? Quoting from Thomas Kean, cochair of the 9/11 Commission:

There was no question in our minds that there was a relationship between Iraq and Al Qaeda.

Let us get the facts straight. If we are going to come to the Senate floor and charge the President of the United States with misinforming the American people, we need not misinform them ourselves.

Quoting further from the 9/11 Commission report:

With the Sudanese regime acting as an intermediary, Bin Ladin himself met with senior Iraqi intelligence officers in Khartoum in late 1994 or early 1995. Bin Ladin is said to have asked for space to establish training camps, as well as assistance in procuring weapons, but there is no evidence that Iraq responded to this request . . . [but] the ensuing years saw additional efforts to establish connections.

That is from page 61 of the report. From page 66:

In March 1998, after Bin Ladin's public fatwa against the United States, two Al Qaeda members reportedly went to Iraq to meet with Iraqi intelligence. In July, an Iraqi delegation traveled to Afghanistan to meet first with the Taliban and then with Bin Ladin. Sources reported that one, or perhaps both, of these meetings was apparently arranged through Bin Ladin's Egyptian deputy, Zawahiri, who had ties of his own to the Iraqis.

From page 66:

Similar meetings between Iraqi officials and Bin Ladin or his aides may have occurred in 1999 during a period of some reported strains with the Taliban. According to the reporting, Iraqi officials offered Bin Ladin a safe haven in Iraq. Bin Ladin declined, apparently judging that his circumstance in Afghanistan remained more favorable than the Iraqi alternative. The reports describe friendly contacts and indicates some common themes in both sides' hatred of the United States. But to date we have seen no evidence that these or the earlier contacts ever developed into a collaborative operational relationship. . . .

That is the critical distinction. We have to be careful of our language, especially when we are accusing the President of the United States of misleading the American people. Our language matters. The President never alleged an operational link or that Saddam Hussein helped to plan the 9/11 attack on the United States, but there is plenty of evidence of connections between bin Laden, al-Qaida, other terrorists and Iraq and Saddam Hussein.

The Intelligence Committee report in July of this year reported:

[F]rom 1996 to 2003, the Iraqi Intelligence Service ''focused its terrorist activities on Western interests, particularly against the U.S. and Israel.

They go on to quote the letter from George Tenet that I quoted before.

[A]ccording to a CIA report called Iraqi Support for Terrorism, ''the general pattern that emerges is one of al Qaeda's enduring interest in acquiring chemical, biological, radiological and nuclear (CBRN) expertise from Iraq.''

This is exactly what Senator MCCAIN talked about a few weeks ago, what the President has talked about, what the Vice President has talked about, our concern of this relationship that would some day, if we did not act against Iraq, blossom into fullblooded support, full-blown support from Iraq to al-Qaida.

Finally:

[T]he Iraqi regime ''certainly'' had knowledge that Abu Musab al Zarqawi—described in Iraqi Support for Terrorism as ''a senior al Qaeda terrorist planner''—was operating in Baghdad and northern Iraq.

I ask unanimous consent that a New York Times article of June 25, 2004, which further makes this point, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 25, 2004]

IRAQIS, SEEKING FOES OF SAUDIS, CONTACTED BIN LADEN, FILE SAYS

(By Thom Shanker)

Contacts between Iraqi intelligence agents and Osama bin Laden when he was in Sudan in the mid 1990's were part of a broad effort by Baghdad to work with organizations opposing the Saudi ruling family, according to a newly disclosed document obtained by the Americans in Iraq.

American officials described the document as an internal report by the Iraqi intelligence service detailing efforts to seek cooperation with several Saudi opposition groups, including Mr. bin Laden's organization, before Al Qaeda had become a full-fledged terrorist organization. He was based in Sudan from 1992 to 1996, when that country forced him to leave and he took refuge in Afghanistan.

The document states that Iraq agreed to rebroadcast anti-Saudi propaganda, and that a request from Mr. bin Laden to begin joint operations against foreign forces in Saudi Arabia went unanswered. There is no further indication of collaboration.

Last week, the independent commission investigating the Sept. 11 attacks addressed the known contacts between Iraq and Al Qaeda, which have been cited by the White House as evidence of a close relationship between the two.

The commission concluded that the contacts had not demonstrated ''a collaborative relationship'' between Iraq and Al Qaeda. The Bush administration responded that there was considerable evidence of ties.

The new document, which appears to have circulated only since April, was provided to The New York Times several weeks ago, before the commission's report was released. Since obtaining the document, The Times has interviewed several military, intelligence and United States government officials in Washington and Baghdad to determine that the government considered it authentic.

The Americans confirmed that they had obtained the document from the Iraqi National Congress, as part of a trove that the group gathered after the fall of Saddam Hussein's government last year. The Defense Intelligence Agency paid the Iraqi National Congress for documents and other information until recently, when the group and its leader, Ahmad Chalabi, fell out of favor in Washington.

Some of the intelligence provided by the group is now wholly discredited, although officials have called some of the documents it helped to obtain useful.

A translation of the new Iraqi document was reviewed by a Pentagon working group in the spring, officials said. It included senior analysts from the military's Joint Staff, the Defense Intelligence Agency and a joint intelligence task force that specialized in counterterrorism issues, they said.

The task force concluded that the document ''appeared authentic,'' and that it ''corroborates and expands on previous reporting'' about contacts between Iraqi intelligence and Mr. bin Laden in Sudan, according to the task force's analysis.

It is not known whether some on the task force held dissenting opinions about the document's veracity.

At the time of the contacts described in the Iraqi document, Mr. bin Laden was little known beyond the world of national security experts. It is now thought that his associates bombed a hotel in Yemen used by American troops bound for Somalia in 1992. Intelligence officials also believe he played a role in training Somali fighters who battled Army Rangers and Special Operations forces in Mogadishu during the ''Black Hawk Down'' battle of 1993.

Iraq during that period was struggling with its defeat by American-led forces in the Persian Gulf war of 1991, when American troops used Saudi Arabia as the base for expelling Iraqi invaders from Kuwait.

The document details a time before any of the spectacular anti-American terrorist strikes attributed to Al Qaeda: the two American Embassy bombings in East Africa in 1998, the strike on the destroyer Cole in Yemeni waters in 2000, and the Sept. 11 attacks.

The document, which asserts that Mr. bin Laden ''was approached by our side,'' states that Mr. bin Laden previously ''had some reservations about being labeled an Iraqi operative,'' but was now willing to meet in Sudan, and that ''presidential approval'' was granted to the Iraqi security service to proceed.

At the meeting, Mr. bin Laden requested that sermons of an anti-Saudi cleric be rebroadcast in Iraq. That request, the document states, was approved by Baghdad.

Mr. bin Laden ''also requested joint operations against foreign forces'' based in Saudi Arabia, where the American presence has been a rallying cry for Islamic militants who oppose American troops in the land of the Muslim pilgrimage sites of Mecca and Medina.

But the document contains no statement of response by the Iraqi leadership under Mr. Hussein to the request for joint operations, and there is no indication of discussions about attacks on the United States or the use of unconventional weapons.

The document is of interest to American officials as a detailed, if limited, snapshot of communications between Iraqi intelligence and Mr. bin Laden, but this view ends with Mr. bin Laden's departure from Sudan. At that point, Iraqi intelligence officers began ''seeking other channels through which to handle the relationship, in light of his current location,'' the document states.

Members of the Pentagon task force that reviewed the document said it described no formal alliance being reached between Mr. bin Laden and Iraqi intelligence. The Iraqi document itself states that ''cooperation between the two organizations should be allowed to develop freely through discussion and agreement.''

The heated public debate over links between Mr. bin Laden and the Hussein government fall basically into three categories: the extent of communications and contacts between the two, the level of actual cooperation, and any specific collaboration in the Sept. 11 attacks.

The document provides evidence of communications between Mr. bin Laden and Iraqi intelligence, similar to that described in the Sept. 11 staff report released last week.

''Bin Laden also explored possible cooperation with Iraq during his time in Sudan, despite his opposition to Hussein's secular regime,'' the Sept. 11 commission report stated.

The Sudanese government, the commission report added, ''arranged for contacts between Iraq and Al Qaeda.''

''A senior Iraqi intelligence officer reportedly made three visits to Sudan,'' it said, ''finally meeting bin Laden in 1994. Bin Laden is said to have requested space to establish training camps, as well as assistance in procuring weapons, but Iraq apparently never responded.''

The Sept. 11 commission statement said there were reports of further contacts with Iraqi intelligence in Afghanistan after Mr. bin Laden's departure from Sudan, ''but they do not appear to have resulted in a collaborative relationship,'' it added.

After the Sept. 11 commission released its staff reports last week, President Bush and Vice President Dick Cheney said they remained convinced that Mr. Hussein's government had a long history of ties to Al Qaeda.

''This administration never said that the 9/11 attacks were orchestrated between Saddam and Al Qaeda,'' Mr. Bush said. ''We did say there were numerous contacts between Saddam Hussein and Al Qaeda. For example, Iraqi intelligence officers met with bin Laden, the head of Al Qaeda, in the Sudan. There's numerous contacts between the two.''

It is not clear whether the commission knew of this document. After its report was released, Mr. Cheney said he might have been privy to more information than the commission had; it is not known whether any further information has changed hands.

A spokesman for the Sept. 11 commission declined to say whether it had seen the Iraqi document, saying its policy was not to discuss its sources.

The Iraqi document states that Mr. bin Laden's organization in Sudan was called ''The Advice and Reform Commission.'' The Iraqis were cued to make their approach to Mr. bin Laden in 1994 after a Sudanese official visited Uday Hussein, the leader's son, as well as the director of Iraqi intelligence, and indicated that Mr. bin Laden was willing to meet in Sudan.

A former director of operations for Iraqi intelligence Directorate 4 met with Mr. bin Laden on Feb. 19 1995, the document states.

Mr. KYL. I note, concluding with this point, that Abdul Yasim and Abu Nidal were harbored in Iraq. The Taliban did not directly involve itself in 9/11 or have weapons of mass destruction either, but it harbored people like this and that is one reason we went after the Taliban and Saddam Hussein's regime in Iraq.

With regard to the connections between Iraq and al-Qaida, the case is very clear that they were there and the President stands correct, and I hope the Senator from Massachusetts would stand corrected.

Finally, as to the suggestion that Iraq was a diversion from succeeding in Afghanistan, that we have not finished the job there, we were very successful in defeating the Taliban and killing a lot of al-Qaida and capturing a lot of al-Qaida in Afghanistan, and in establishing a regime there which will be holding elections. Karzai made it very clear when he came to this country and expressed his appreciation, just as did Prime Minister Allawi of Iraq, to American forces for helping to provide the Afghanis with enough freedom to control their own future. I think there is confusion that the only al-Qaida are on the border between Afghan and Pakistan, and since we have not captured every single one of them, including Osama bin Laden, therefore our activities in Iraq are responsible for this fact. There has been no evidence of that. As a matter of fact, our military commanders make the point it is not true, that Iraq was not a diversion from anything we had to do in Afghanistan where we were very effective and successful.

To those who convey this sense of panic, that all is going bad, the opposite of that is not those of us who support the President's policy saying everything is rosy. I do not know that anybody has ever used that phrase. If they have, I would like to see it. The President has said repeatedly that this is a long and difficult war and it is going to require a great deal of perseverance and commitment by the American people. But as contrasted by those who create the sense of panic, the President has a vision and the President's commanders have a strategy. When I saw General Abizaid on television last Sunday, he didn't paint a rosy picture. He painted a very realistic assessment. But he also portrayed a calm confidence that if we can persevere we can prevail.

That is what he asked of the American people, to allow the military commanders as well as the Commander in Chief to carry out the vision to defeat the militant Islamic terrorists wherever they are. As I said, they are not only in Afghanistan; they are all over the world including primarily in the Middle East. That is why this war has many fronts. It is not just Afghanistan. We fought simultaneously to try to gain support from Pakistan, Saudi Arabia, the Libyan regime, and from Syria. We did what we did in Afghanistan. We have done what we have done in Iraq. There are still some places to go, but we have also been in Yemen and Sudan, and so on.

The bottom line here is you can't isolate one place in the world and say we have to do that first and win every possible goal there before we can do anything else anywhere else. The President has made it clear that by going to one of the chief sources of terrorism, namely Iraq, we can help to win this war.

The fact that there was such a connection between the terrorists—between al-Qaida and the Iraqi regime—is I think validated by the fact that they have been able to so successfully continue to attack Americans and American forces in Iraq.

Let's consider that the military commanders just might know what they are talking about, No. 1. No. 2, it does no good to wring our hands and paint a picture of panic. Realistic assessments, absolutely; truth to the American people, absolutely; but leadership that presents a vision and a strategy for winning the wider war on terrorism, that is what the President has provided. That is why I am very proud to support President Bush's efforts in this regard.3

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

## NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

Pending:

Wyden Amendment No. 3704, to establish an Independent National Security Classification Board in the executive branch.

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification.

Specter Amendment No. 3706, to provide the National Intelligence Director with the authority to supervise, direct, and control all elements of the intelligence community performing national intelligence missions.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, the debate now will resume on the amendment offered by the Senator from Pennsylvania. As discussed last night, we have an informal agreement that Senator ROBERTS would be recognized for—is it 25 minutes, I ask Senator ROBERTS?

Mr. ROBERTS. I thought the agreement was 30.

Mr. REID. Mr. President, I could not hear the Senator from Maine. She said there had been an order that the Senator be recognized?

Ms. COLLINS. Mr. President, if I can respond to the Democratic leader's inquiry, there was an informal discussion

last night. There was not an order entered, to the best of my knowledge, but an informal agreement that Senator ROBERTS would be recognized, and it was either 25 or 30 minutes. I am uncertain.

Mr. ROBERTS. If the distinguished chairman will yield, I am not sure of the timeframe. I think my remarks will be approximately 30 minutes. I hope they will not go over 30 minutes. But that would be my goal.

Mr. REID. My only inquiry here is, Senator HARKIN wishes to speak for 10 minutes sometime. We recognize we should have gotten to the bill earlier than we have, but we didn't, and now with the dialog that has gone on Senator HARKIN believes he needs to speak, so we need to somehow figure a way to allow him to do that.

The Senator from Maine has the floor. We understand that. But is there some way between the two managers we can get Senator HARKIN some time here this morning? Otherwise he is just going to hang around and cause trouble.

Ms. COLLINS. Mr. President, if I could complete my sequencing here. After Senator ROBERTS, Senator LEVIN had asked to be recognized on the Specter amendment. They were both here last night, so I want to respect their requests as well.

I wonder if we could arrange for Senator HARKIN to speak after the first series of votes today, for 10 minutes.

Mr. REID. That is fine. After the first vote today I ask unanimous consent Senator HARKIN be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Senator STEVENS to follow Senator HARKIN.

Ms. COLLINS. As part of that sequencing, it would be 10 minutes for Senator HARKIN and 10 minutes for Senator STEVENS—oh, I am sorry. Senator STEVENS is on the bill?

Mr. REID. It would be 15 minutes for Stevens, 15 for Harkin? Or unlimited for Stevens?

Ms. COLLINS. Senator STEVENS is going to be speaking on the bill so he has asked for an unlimited amount of time.

Mr. REID. We understand Senator STEVENS, being the President pro tempore of the Senate, can speak as long as he wants. Again I repeat, after the first vote Senator HARKIN will be recognized for 15 minutes, and then Senator STEVENS will be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kansas is recognized.

AMENDMENT NO. 3706

Mr. ROBERTS. Mr. President, I rise in support of the Specter amendment. Before I begin, I would like to commend the managers of the bill, Senators COLLINS and LIEBERMAN, for their extraordinary patience and their hard work as we continue working through this process. Senators COLLINS and LIEBERMAN are very prominent and hard-working Senators. They have been given a very tough assignment and a limited timeframe in which to complete it. Nevertheless, they have produced a bill which is a step in the right direction.

As chairman of the Senate Intelligence Committee, I look forward to working with the Senators who serve on the committee of assignment by the leadership as the Senate attempts to make intelligence reform a reality.

Simply put, the Specter amendment would give the national intelligence director, or what we call now the NID, the authority to direct and supervise and control our national intelligence collection agencies. In doing so, it will create a clear chain of command that will leave no doubt in anybody's mind that the national intelligence director is in charge and is accountable.

There is no rush to judgment on this issue. The debate in which we are currently engaged is the same debate that has been going on for decades, centered on how to grant increased authority to the Director of Central Intelligence, or a new national intelligence director, while leaving undisturbed the intelligence community's structural status quo. Time and time again, those who have struggled with this conundrum have found we simply can't get there from here under that context. In other words, I believe it takes significant organizational change to overcome the inherent conflicts in the current structure of our national intelligence community.

True empowerment requires a national intelligence director with both budget authority and the authority to direct and control the activities of the intelligence collection agencies. One without the other will once again leave us with an intelligence head who can neither succeed nor be held fully accountable.

Let me state that the bill reported by the Governmental Affairs Committee does address the question of budget authority very effectively. It is significant and well contained. The bill leaves unaddressed, however, the issue of the national intelligence director's authority to direct, to supervise, and control the activities of our national intelligence collection agencies.

In short, the bill, in my opinion, preserves divided loyalties inherent in the current structure. Why is it so difficult to give this new NID direct control over all of the intelligence community agencies? It is no secret. The issue centers on the fact that the National Reconnaissance Office, which designs and acquires our spy satellites, the National Security Agency, which collects our signal intelligence, and the National Geospatial Intelligence Agency, which processes and disseminates our satellite imagery, all fall under the direct control of the Secretary of Defense.

These agencies, while essential to the collection of national intelligence, have also been deemed essential to the Pentagon's ability to fight and to win wars. In essence, these agencies serve two masters: The head of the intelligence community and the Secretary of Defense. This tension has existed for decades, and it continues today. As long as the Secretary of Defense directs the day-to-day activities of these agencies, the new national intelligence director will continue to struggle with a structure that undermines his ability to succeed as the head of the intelligence community.

It appears to me that under today's bill the national intelligence director's authority concerning collection will be about the same as the DCI's has been for over 50 years. I do not mean to be a pessimist, but history has shown in practice that these authorities to ''establish requirements,'' ''manage the collection task,'' and ''resolve the conflicts'' have limited ability when an agency works with the Secretary of Defense and not for the head of the intelligence community.

Why has it been so difficult to streamline the chain of command in the intelligence community? Because when the Defense Department comes up on the radar screen and announces to Congress and the media that its ability to defend America will be undermined if it loses direct control over its intelligence agencies, Members of Congress rightfully pause and they certainly take note. This is especially true today when American forces are engaged in combat. This, however, should not lead to what we call paralysis.

During this debate, we have heard a great deal about support to our dedicated, brave men and women in uniform, i.e., the warfighters. Many of my colleagues have argued and will continue to argue that the national intelligence director must not be allowed to direct and supervise the control of activities of our national intelligence collection agencies. In their view, granting such an authority would undermine the Secretary of Defense's ability to fight and win wars. For this to be true, the national intelligence director would have to deny our military commanders the information they need to wage war. I cannot conceive of any circumstance where that would be the case.

I am a member of the Armed Services Committee. I am a former Marine officer. I would not sanction any legislation that I thought would limit the ability of our troops to fight and to win wars. I recognize the special requirements of the Department of Defense. As chairman of the Intelligence Committee, I also know that the Department of Defense is only one of the major consumers of intelligence. Important, yes; major, yes; but one.

I often hear people referring to the Department of Defense as the principal consumer of intelligence. While the Department is a significant and important consumer of intelligence, we need

to remember one thing: The principal consumers of intelligence are the President of the United States, the Congress, and the National Security Council. They are the principal consumers. The Department of Defense is a major consumer.

In time, the Department of Homeland Security is likely to become a voracious consumer of intelligence, perhaps on a par with the Department of Defense.

I do not believe the defense of the homeland is any less important than prosecuting the war. Consequently it does not make sense to have 80 percent of our intelligence collection apparatus controlled by one consumer, and that is the Department of Defense.

If we give the national intelligence director the authority to manage all of the national collection agencies, that will ensure one office is responsible and accountable for meeting the intelligence requirements of all consumers including, of course, that of the Department of Defense. If any Cabinet member believes their intelligence requirements are not being met, he or she can address the issues to the national intelligence director. If a Cabinet member does not agree with NID's decision, they can take it up with the President of the United States.

I also note that in testimony before Congress, the directors of two of the Pentagon's intelligence collection agencies—the National Security Agency and the National Geospatial Intelligence Agency—stated that having their agencies transferred to the control of a national intelligence director would not degrade their level of support to the military.

Let me repeat that. The directors of two of the Pentagon's intelligence collection agencies—the National Security Agency and the National Geospatial Intelligence Agency—stated that having their agencies transferred to the control of a national intelligence director would not degrade their level of support to the military.

Additionally, some have argued that giving the national intelligence director line control of agencies with uniformed military personnel would be complicated. There will certainly be some issues to be resolved, to be sure. But the Department of Defense regularly details military personnel to agencies and offices outside of the Department of Defense. We would not be breaking new ground here. We have had civilian control of the military since the founding of this Nation, and I don't see how civilian control by a national intelligence director is qualitatively different than civilian control by the Secretary of Defense. They both work for the President.

There has been a lot of talk about that fact in regard to meetings we have had with people in uniform and the Secretary of Defense and a certain Senator asking, How would you feel if your budget was controlled by somebody who didn't wear a uniform? Well, the Secretary of Defense doesn't wear a uniform. When the military appears before the Congress, they don't wear a uniform. Neither does the Secretary of Army, Navy, or Air Force wear a uniform.

Let me detail a few examples to illustrate why direct control is so important to the success of the national intelligence director.

As recently as last week—I would like for Members to pay attention to this—as recently as last week, the Senate Intelligence Committee received a very troubling briefing in closed session that clearly demonstrated that even on matters relating to the terrorist threat to our homeland, today, now, the terrorist threat that we face, the intelligence agencies still stubbornly refuse to adequately share information. Why are these agencies still not sharing? Some progress has been made. But why are they still not sharing? Is it because the DCI doesn't have adequate budget authority? No. They don't share it because they work for 15 different bosses and no one holds them accountable for information sharing. The national intelligence director can cajole, he can plead, he can consult all he wants; he can promulgate policies and guidelines all day long. He can create grand, trusted information networks. But without a national intelligence director with direct control, there will be no one to force adequate information sharing within the intelligence community.

Let us take another example.

We have all heard former DCI Tenet's now famous declaration of war against al-Qaida in 1998. Mr. Tenet ordered that no resource was to be spared in this critical effort. He declared war as a result of Osama bin Laden issuing fatwas to kill Americans.

What happened as a result of this bold order? Not much. The National Security Agency went its own way, saying: Thank you, Mr. DCI, for your interest in national security, but we are going to retool for a threat that has nothing to do with terrorism.

What would have happened if Mr. Tenet had the authorities granted to the national intelligence director under the Collins-Lieberman bill when he made his 1998 declaration? He might have said: We are at war, and the NSA will see that reflected in the budget you will receive in the next year or so, assuming Congress does not make any changes to it. That is budget authority. That is the crowbar he would use in terms of influence. However, with the authorities to direct, supervise, and control, which are provided in the Specter amendment, Mr. Tenet would have been able to order the NSA to stop retooling for the other threat, get to work that day, focus their efforts on al-Qaida. In the 21st century, threats evolve too quickly to wait a year or so for the national intelligence director's budget change to have any effect. The NID must have direct control in order to make immediate changes.

The bill before the Senate today is a significant step in the right direction. Credit goes to Senator COLLINS and Senator LIEBERMAN. There are many good provisions in the bill which should improve the intelligence community, but it is missing something very important—a clear chain of command and accountability.

As the examples I have cited demonstrate, a clear chain of command and accountability that comes with it are essential to real and lasting reform. If we do not make the hard choices now, I fear after yet another series of intelligence failures—and Lord knows I do not want to sit as chairman of the Intelligence Committee and have any more ''Oh my God'' hearings in regard to past tragedies from Khobar Towers to embassy bombings to the Khartoum chemical plant to the failure to even try to come as close as possible to predicting the India nuclear blast, Somalia, the USS *Cole*, and obviously September 11. We do not want to go back down that road.

I fear the Senate Intelligence Committee will be right back in its hearing room listening to the newly minted national intelligence director testify while he enjoys a great deal of budget authority he still lacks the real authority to perform the day-to-day operations of our intelligence agencies and therefore lacks ability to lead as we expect and as he must. I urge my colleagues to support the Specter amendment so there is no doubt in anyone's mind that the national intelligence director is in charge and is accountable.

I will take a few more moments to comment on some of the debate I have heard concerning this amendment. This is not a new debate. What I heard in the Senate yesterday and today represents an age-old tension that has existed since the intelligence community was created.

Ms. COLLINS. Would the Senator yield briefly for a unanimous consent request?

Mr. ROBERTS. Certainly, I would be more than happy, in the middle of shining the light of truth into darkness, to yield for a unanimous consent request.

Ms. COLLINS. I apologize for interrupting the Senator. Mr. President, I ask unanimous consent that the only amendments remaining to the bill other than the pending amendments be the two lists I now send to the desk; provided further that they be subject to second degrees that are related to the subject matter of the first degree; further, that all other provisions governing the consideration of this bill remain in effect.

Mr. SPECTER. Reserving the right to object, would the distinguished chairwoman repeat that unanimous consent request?

Mr. REID. Mr. President, basically what we have done, we now have a finite list of amendments. The two cloakrooms have hotlined every Senator, and we have, I am sorry to say, more than 200 amendments, but that is

the finite list, and the Senator from Pennsylvania is on the list.

Mr. SPECTER. Parliamentary inquiry: For how many amendments am I on the list?

Mr. REID. Seven.

Ms. COLLINS. Seven plus the pending amendment.

Mr. SPECTER. I thank the Chair.

Mr. ROBERTS. If the Senator will yield, may I ask if the 21 amendments I have drafted, amendments that would improve the nature of the bill, are they included in that list?

Ms. COLLINS. They are indeed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Thank you, Mr. President.

I thank the Senator.

Mr. REID. Mr. President, if the Senator will allow me to make a statement as to what we are going to do here for a minute, I will be very brief.

The two leaders have directed the two managers of the bill that the next step will be to get a filing deadline. Hopefully that will be in the next few hours. We may not be able to do it until tomorrow, but we are working as quickly as we can to make sure amendments people have submitted will be drafted. We are moving along as quickly as we can.

The list of amendments is as follows:

Shelby, Domestic Preparedness; Shelby, Domestic Preparedness; Shelby, NID; Ensign, Relevant; Ensign, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Lugar, Relevant; Lugar, Relevant; Voinovich, Presidential Appointments; Cornyn, Human Smuggling; Cornyn, State and Local Law Enforcement; Cornyn, Drivers Licenses.

Snowe, IG; Snowe, Red Teams; Snowe, NIE Reports; Snowe, NCTC Reports; Snowe, Relevant; Snowe, Relevant; Allard, Marshall Imagery; Allard, Personnel Authorities; Allard, Personnel Authorities; Allard, Geospatial Informatrion; Cornyn, Cyber Security; Grassley, Money Laundering/Terror Financing; Grassley, IG/Whistleblower Protection; Grassley, Visas; Grassley, Visas; Grassley, Related; Grassley, Related; Grassley, Related.

Hutchison, Center for Alternative Intel. Analysis; Hutchison, Relevant; McConnell, Related; McConnell, Related; McConnell, Related; McConnell, Related; Domenici, Natl. Critical Infrastructure Center; Domenici, Border Surveillance; Domenici, WMD Intel. Center; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant.

Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Chambliss, Border Security; Chambliss, Document Security; Chambliss, Relevant; Chambliss, Relevant; Chambliss, Military Intel.; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant.

Roberts, NID Agency Control; Roberts, Definitions; Roberts, IC/NFIP Programs; Roberts, IC/NFIP Programs; Roberts, Non-NFIP DIA Programs; Roberts, Intel-Sharing; Roberts, NIDs Authorities; Roberts, NIA; Roberts, NID; Roberts, Sect. 504 of Natl. Sec. Act of 1947; Roberts, NID Control of CIA; Roberts, Reprogramming and Transfers; Roberts, New Positions Subject to NID Concurrence; Roberts, NID Authority; Roberts, NID Authority; Roberts, Analytic Review Unit; Roberts, GC Provision; Roberts, IG Provision; Roberts, NCTC and NIC Responsibilities; Roberts, SecDef Responsibilities to NID for NIP; Roberts, NID Authority; Roberts, NID Authority; Roberts, NID; Roberts, Relevant; Roberts, Relevant.

Hatch, Punishment for Stowaways; Hatch, FBI Translators; Hatch, Expedited Terrorist Removal; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant.

Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Gregg, FBI; Gregg, Relevant; Coleman, Information Network; Coleman, Strike; Collins, Relevant; Collins, Relevant; Collins, Relevant.

Talent, Relevant; Burns, Federal Flight Deck Officer Prog.; Burns, Relevant; Burns, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list.

Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Managers' amdendments; Voinovich, Ethics in government.

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Akaka, 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant.

Baucus, 1. Relevant.

Bayh, 1. Congressional Reform.

Biden, 1. Relevant; 2. Relevant.

Bingaman, 1. Terrorism; 2. Lab Employees; 3. Chief Science Officer; 4. Relevant.

Boxer, 1. Relevant; 2. Relevant; 3. Relevant.

Byrd, 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant.

Cantwell, 1. Biometric Visas.

Carper, 1. Rail Security.

Clinton, 1. Relevant; 2. Relevant; 3. 2nd degree to Collins Formula Grants.

Conrad, 1. Relevant; 2. Relevant; 3. Relevant.

Corzine, 1. Relevant; 2. Relevant; 3. Relevant.

Daschle, 1. Related; 2. Related; 3. Related to any on the list; 4. Related to any on the list.

Dayton, 1. NID Communication with Congress.

Dorgan, 1. Nano-technology.

Durbin, 1. Civil liberties; 2. Civil liberties; 3. Foreign language, Science, technology education.

Feingold, 1. Information sharing; 2. Relevant.

Feinstein, 1. State and Local; 2. DoD Tactical; 3. National Intel University; 4. Clarify sub-official role; 5. Colocation; 6. FBI General; 7. Reserve Corps; 8. Related; 9. Related.

Graham, 1. NIC; 2. Education and Training; 3. Relevant; 4. Relevant.

Jeffords, 1. Interoperability; 2. Preparedness; 3. Security; 4. Critical Infrastructure.

Harkin, 1. Civil Liberties; 2. Civil Liberties; 3. Related.

Hollings, 1. MTSA deadlines.

Inouye, 1. TSA.

Lautenberg, 1. NID Five year term (renewable); 2. Close Business with Terrorists Loophole; 3. Risked Based Homeland Security; 4. Port Security; 5. Rail Security; 6. Saudi Arabia.

Leahy, 1. Relevant; 2. Relevant; 3. Translators Report Act; 4. FISA Oversight; 5. FBI Reform Act; 6. USA Patriots Restoration Act; 7. Whistle Blower Protections; 8. Information Sharing Enhancement; 9. Civil Liberties Review Board Improvements; 10. Passenger Screening/Watch Lists; 11. Passenger ID verification.

Levin, 1. Intel Requirements; 2. Alternative Intel; 3. Critical Infrastructure Protection; 4. Budget Authority; 5. Relevant; 6. Relevant.

Lieberman 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant to any on list; 5. Relevant; 6. Relevant; 7. Relevant to any on list; 8. Relevant to any on list; 9. Relevant to any on list; 10. Relevant to any on list.

Hollings, 1. Creating National Intelligence Coordinator.

Nelson (FL), 1. Relevant; 2. Relevant; 3. Relevant.

Reed, 1. LNG; 2. Transit Security.

Reid, 1. Relevant; 2. Relevant.

Rockefeller, 1. Relevant; 2. Relevant; 3. Relevant to any on the list; 4. Relevant to any on the list.

Sarbanes, 1. Civil liberties.

Schumer, 1. Signal Corps; 2. Biometric Screening; 3. Port Security; 4. Cyber Security; 5. Foreign Intelligence Surveillance Act; 6. Saudi Arabia; 7. Truck Security; 8. Rail Security; 9. Relevant; 10. Relevant; 11. Relevant.

Wyden, 1. Independent Security Classification Board (S.A.# 3704); 2. Databases.

Mr. ROBERTS. What I heard in the Senate yesterday in regard to comments on this debate represents an age-old tension that has existed since the intelligence community was created.

Members heard numerous quotes from statutes such as title 10, title 50. The heart of this debate, however, is whether we will give an individual unambiguous control of intelligence activities in the United States. We can quote from the United States Code all day. The point is the laws could be changed. That is what we do in the Congress. The debate today is about what the law should be, not what the law is. Arguing the status quo is convenient, but it is not always correct.

This bill gives the new national intelligence director one very good tool. It is called budget authority. It does not give him control. The Specter amendment gives the national intelligence director control, which means accountability and real reform.

As we have debated this issue, I have heard many Members cite the words and reported opinions of the 9/11 Commission. The 9/11 Commission has done a great service to this country, but the Commissioners themselves have made it clear they do not have all the answers.

The 9/11 Commission did produce an excellent study of the failures leading

up to the attacks of September 11. The Governmental Affairs Committee bill is faithful to the lessons the Commission drew from its work. It is an excellent report. But I remind my colleagues that the Commission's report was based on a single case study—the period leading up to the attacks of September 11. However, a broader historical examination of our intelligence community leads many—including this Senator—to the important conclusion that over the last 50 years, the intelligence community has drifted due to the lack of or absence of a clear chain of command and the lack of accountability that a clear chain of command can bring. That clear chain of command requires giving the national intelligence director the authority to direct, to control, and to supervise our national collection agencies.

Our job is not to take the work of the 9/11 Commission as a sacred text which is not to be questioned or altered; our job is to take their work and integrate it with the lessons learned over the 50-plus years of history of our intelligence community and nearly 30 years of congressional oversight by the Intelligence Committee. As the Senator from Pennsylvania has pointed out, his amendment incorporates many of those lessons.

Yesterday, I also heard Members argue that the Specter amendment would create confusing chains of command for the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, and the intelligence collection elements of the Defense Intelligence Agency. I respectfully disagree.

In addition to providing the national intelligence director with the authority to direct, supervise, and control these agencies, the Specter amendment clarifies other provisions of law to specifically address this concern. It amends title 10 and title 50, adds two new provisions to the law to specifically clarify that the Directors, again, of the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, and the intelligence collection elements of the Defense Intelligence Agency report directly to the national intelligence director.

While this amendment gives the national intelligence director direct control over these agencies, they remain ''combat support agencies''—nobody quarrels with that—and the Secretary of Defense will still have influence over them. That is by design. No one is trying to change that. I think it is much better than the bill's current language in which the Secretary of Defense has direct control of these agencies, and the NID only has influence and persuasion. I can tell you from past history, influence and persuasion do not get you very far at the Pentagon.

Some have argued that only the Secretary of Defense can manage the combat support agencies. Some argue that only if the Secretary of Defense manages the Pentagon's national intelligence collection agencies will the warfighter receive adequate support. This is a fallacy. As I said earlier, there is no reason to believe the Defense Department will not receive the support it needs if the Pentagon's national intelligence collection agencies report to the national intelligence director.

The amendment provides the Secretary of Defense with important feedback mechanisms to make sure the Department is getting the national intelligence support it needs.

First, the Secretary of Defense is required to provide the national intelligence director with some performance appraisals for the directors of the national intelligence collection agencies. Second, the national intelligence director will receive recommendations from the Chairman of the Joint Chiefs of Staff based upon a biannual review of the combat support plans for the National Security Agency; again, the National Reconnaissance Office; again, the National Geospatial-Intelligence Agency; and the DIA, again, the Defense Intelligence Agency.

Working with the Secretary of Defense through these feedback mechanisms, the national intelligence director will ensure that the Defense Department's intelligence needs are met. Clearly, this amendment recognizes the important support role these agencies play to the Department of Defense in its role as an intelligence consumer.

Now, I also heard the argument yesterday that giving the national intelligence director direction, supervision, and control of the National Geospatial-Intelligence Agency is a bad idea because that agency is responsible for making maps. I point out that this agency used to be named the National Imagery and Mapping Agency, but they changed its name to signal a change in the manner in which it would perform its mission.

The National Geospatial-Intelligence Agency, or the NGA, uses intelligence data acquired by satellites and other means and melds that data into the maps that our entire Government uses. This is what is now called geospatial intelligence. The maps we use have the full benefit of the intelligence data we gather all around the world. Mapmaking is not inconsistent with the national intelligence director's mission.

Another argument heard yesterday against the Specter amendment was that the 9/11 Commission had considered granting the NID direction, supervision, and control authorities but rejected the idea on the grounds that the duties of managing these agencies would overload the national intelligence director. However, I note that the Secretary of Defense controls the military services, the Reserves, the unified commands, the defense agencies, field activities, literally millions of uniformed and civilian personnel, and those who mow the yard outside the Pentagon.

So if I understand correctly, in order not to overburden the national intelligence director, we will leave the national intelligence collection agencies under the control of an already extremely busy and, I might add, effective Secretary of Defense. This logic escapes me.

I also heard an argument that the 9/11 Commission had rejected granting the national intelligence director greater authorities because the Commissioners preferred what was described on the Senate floor as a ''lean, mean modern corporate structure.''

I ask my colleagues, What successful modern corporation would not give its chairman and CEO the authority to direct, supervise, and control every component of the organization for which he or she was held accountable by the shareholders? We should not confuse direction, supervision, and control with micromanagement.

I also heard the argument that the Specter amendment would promote group-think within the intelligence community. Well, I can tell you that the Senate Intelligence Committee wrote the book on the occurrence of group-think in its report on the prewar assessments on Iraq's WMD programs.

It is a problem that we on the committee watch very carefully every week, almost every day. I do not believe the Specter amendment will promote any kind of group-think. I would be concerned about the risk of group-think if we were proposing to grant the national intelligence director the authority to direct, supervise, and control the analytical content of our national analytical agencies. That is not what Senator SPECTER's amendment proposes. It proposes direction, supervision, and control over the Department of Defense's national intelligence collection agencies.

Additionally, as was seen in the committee's examination of the prewar assessments—as I say, it took us over a year, 22 professional staff members; we interviewed over 220 analysts—the creation of a strong national intelligence director will prevent group-think in the intelligence community. A strong director will ensure a level playing field in which the analysis of all agencies will be given full consideration and equal consideration based upon the quality of the analysis when intelligence community assessments are being developed. If anyone has studied the committee's Iraq report—and I encourage Senators to read it, 511 pages—they know that the lack of a level playing field was a major problem.

Mr. President, with that I am going to conclude my remarks. I urge Members to support the Specter amendment.

The Specter amendment has been described as a ''bridge too far.'' This well-known term is a product of the tragic Battle of Arnhem, Holland, in 1944.

Many historians see the tragedy of Arnhem as a combination of errors, i.e., the undertaking, for some political

reasons, of an ill-advised military campaign opposed by American commanders; i.e., and a massive intelligence gap that failed to detect a large concentration of German armor in the area.

Mr. President, the ''bridge too far'' analogy is apt, but it cuts in favor of the Specter amendment. We must not, for political reasons, fail to make the hard decisions that are necessary to ensure a strong, in-charge national intelligence director.

These decisions are difficult. They are hard. But these decisions are critically needed. The changes we make today have one overarching goal: to prevent another intelligence failure on the order of Arnhem and September 11. Because of those failures, the allies suffered 17,000 casualties and, obviously, on September 11, 3,000 died.

Failure to approve the Specter amendment may be seen by historians as a tragic half-measure that led to another Arnhem or another September 11.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator BOND immediately follow me in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I associate myself with the remarks of the distinguished chairman of the Intelligence Committee.

I rise today to support the amendment offered by Senator SPECTER. This amendment has the support of Senators SPECTER, SHELBY, and ROBERTS—two former chairmen of the Intelligence Committee, as well as the current chairman of the Senate Select Committee on Intelligence. I have had the pleasure to work closely with these colleagues, and I respect their experience and their independent thinking on intelligence matters.

This amendment is also cosponsored by a bipartisan group of Senators from the Intelligence Committee. This amendment establishes the goals set forth by 14 Senators who addressed a letter to Chairman COLLINS and Senator LIEBERMAN on September 20, 2004, in which they sought to ensure that the national intelligence director has the ability to control the day-to-day operations of all of our national intelligence assets.

I consider myself privileged to serve as a member of the Intelligence Committee during these difficult and historic times. Yet I can also say that during these years I have heard too many excuses for intelligence failures. I have seen firsthand the damage that comes when the head of the intelligence community lacks the ability to effectively lead our national intelligence agencies.

The chairman and the ranking minority member of the Governmental Affairs Committee have taken on a monumental task, for which I am grateful. They have been charged with writing a bill that modifies the National Security Act of 1947, to give the national intelligence director greater budget control and stronger authority to manage the intelligence community. This task, as we all know, has been extremely complicated.

It is particularly difficult when one considers the broad authorities that the National Security Act of 1947 already granted to the Director of Central Intelligence, as head of the intelligence community.

Under that act, the DCI was given substantial authority to develop a budget for national intelligence activities, to set election requirements and priorities, and to direct intelligence analysis. The Intelligence Committee has observed over time, however, that the DCIs cannot exercise their authorities because they do not have actual control over the operations of the national intelligence agencies. This is because the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency report operationally to the Secretary of Defense, and DCIs have had to negotiate and cajole to ensure that their operational initiatives were met. As a result, to keep from hindering this day-in/day-out negotiation, DCIs were unable to effectively exercise their broad budget authorities.

There is no greater example in my eyes—or at least modern example—than in 1998, when former DCI George Tenet recognized that we needed to direct all of our intelligence resources to defeating al-Qaida. This was his famous ''declaration of war'' against al-Qaida, and he declared that no resource of intelligence would be spared to defeat al-Qaida. He was ignored by the intelligence community that he was in charge of leading.

For example, the National Security Agency retooled for a different signals intelligence mission, not for the war on al-Qaida. We simply cannot ignore this example of unused DCI authorities. We cannot forget the lessons of past intelligence failures. I am concerned that the best intentions of the Governmental Affairs legislation will never be fulfilled and that the good authorities granted to the national intelligence director under the legislation will never be effectively exercised.

The debate we are having today about the authorities of the national intelligence director versus the Secretary of Defense has occurred in this town over and over again since the National Security Act was first passed back in 1947. As the intelligence community grew, the authorities of the Director of Central Intelligence were diluted as the Secretary of Defense gained a greater share of control over our intelligence agencies.

We have a unique opportunity in the next few weeks to establish a structure that puts someone truly in charge of our national intelligence mission. I think we have to take this opportunity to clarify the confused chains of command that have handcuffed past Directors of Central Intelligence.

With a national intelligence director empowered to ''supervise, direct and control'' our national collection assets, we will implement real reform, not just establish another bureaucratic level and finally have one person who is actually accountable to the President and to Congress. Only with the Specter amendment's clear chains of command will we give the national intelligence director the authorities necessary to meet his vast responsibilities.

Some will argue that the Specter amendment goes too far; that it is just too hard to separate the NSA, NRO, and NGA from the Department of Defense; that it will hinder intelligence support for the warfighters. The argument made has not been compelling. Why are clear chains of command a bridge too far, as some have suggested? That is a clear image, but it does not illuminate the argument. Why should we rely on a mishmash of budget and personnel controls to put a national intelligence director nominally in charge when we know that real control and accountability will only come with a clear chain of command to the director? We have all been saying that for months and so has the 9/11 Commission. Why are we talking about current provisions of law to show that these combat support agencies can't be separated from the Defense Department?

Let's not let arguments about current law confuse the issue. We are talking about putting a national intelligence director in charge. We are debating a bill that would change current law. If the Specter amendment requires, we can accommodate other necessary provisions.

Finally, no one believes that the NSA, NRO, NGA, and DIA would stop supporting the warfighter if this amendment is enacted. Really, does anybody? The answer to that is no. If I believed that, I would not support this amendment. Why would a national intelligence director turn off the intelligence support upon which our warfighters rely so much? I have never known a DCI to do such a thing. No national intelligence director would ever shortchange the warfighter. No President or Congress would ever permit that. In fact, the Specter amendment recognizes the unique position of the Department of Defense as an intelligence consumer—giving the Secretary of Defense the right to prepare annual performance evaluations for the Directors of the Central Intelligence Agency, the NRO, NSA, NGA, and DIA, and maintaining the Joint Chiefs biannual review of the combat support plans of the NRO, NSA, NGA, and DIA.

What the Specter amendment does not do is maintain the current confused chains of command for the national intelligence collectors within the Department of Defense. The Specter amendment recognizes that accountability and effective management are only possible with clear chains of

command. The blunt tool of budget control is not an effective mechanism for flexible midcourse corrections in intelligence collection that a national intelligence director must be able to make, without having to negotiate or consult for his or her priorities.

If the confused chains of command of the status quo are an effective mechanism for control, we should ask the Secretary of Defense if budget control would be sufficient for him to ''coordinate'' a war. If the Secretary of Defense only controlled the Army's budget, would that be sufficient command of the Third Infantry Division? If he only controlled the Navy's budget, could he order an aircraft carrier from one ocean to another and expect it to move? If the answers to those questions are no, then why should we settle for anything less than full direction, supervision, and control of national intelligence collection for the national intelligence director?

I support the Specter amendment. I know everybody on this floor is sincerely trying to resolve these problems as best they can. I commend the distinguished committee for the work it has done in bringing this bill to the floor and the two leaders on the floor. But I think we should support the Specter amendment. I urge all my colleagues to do the same.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair and appreciate the words of my colleagues.

In spite of years of recognition that intelligence was in dire need of reform, the catalyst of this year's reform initiative was the tragedy of September 11, 2001. The intelligence failure of Iraq's WMD programs only underscores this point.

I applaud many of the provisions of the Collins-Lieberman bill. However, I stand in support of the Specter amendment as a means to provide absolutely essential powers to the national intelligence director. For those who may just happen to be listening for the first time, the national intelligence director is now known as the NID. But this NID must have powers to bring together fully and effectively our national collection efforts.

In spite of my respect and admiration for the efforts of my colleagues, I remind the Senate that now is the time for bold action. This deliberative body must be prepared to stare down very powerful executive branch bureaucracies—and a few of our own—that are instinctively protecting their turf. Three thousand dead Americans should be a message to all of us that we must make significant changes.

A witness before the Senate Intelligence Committee put it well. She said:

> History's lesson is to make the most of reform opportunities when they arise because they do not arise often and they do not last long. We have one of those rare windows of opportunity now. And if the past is any guide, there will not be another chance for a generation. These realities mean that reforms should be sweeping because they will be lasting. The choices we make will be with us for decades to come.

I fear we are not being as bold in the underlying bill as circumstances demand. We all agree that the 9/11 Commission published a great report outlining in detail the events of September 11, 2001.

We could not and we should not detract from their efforts. However, one fundamental concern I have in this is that it is now 3 years after 9/11, and we are only now taking action, largely based on the recommendation of a panel not specifically chartered to focus on the intelligence failures leading to 9/11.

I am concerned that a commission directed by law to investigate the ''facts and circumstances relating to the terrorist attacks of September 11, 2001,'' has become the only basis for intelligence reform.

Well, there is a lot of work that has been going on in this body and in the other body about intelligence reform that is not covered in the 9/11 report.

Just since the end of the Cold War, there have been many major studies of intelligence reform, staffed by intelligence professionals. They include the joint Senate/House inquiry into 9/11, the Aspin-Brown Commission, IC21 study, the House Permanent Select Committee on Intelligence study, the Scowcroft review, and many others.

As I listen to the debate on this Collins-Lieberman bill, I am concerned that the truly meritorious recommendations and thoughts from these other commissions have been largely disregarded. Rather, I seem to hear—behind most of the key provisions in the bill—the rationale that ''the 9/11 Commission said so.'' Well, we do respect and take seriously the work of the 9/11 Commission, but we must be sure that we consider the other recommendations of studies specifically examining the intelligence process. I happen to think that many of those are more accurately reflective of the needs of the intelligence community.

Recommendation No. 1, from the joint Senate/House inquiry into the 9/11 intelligence failure was:

> Congress should amend the National Security Act of 1947 to create and sufficiently staff a statutory director of national intelligence who shall be the President's principal advisor on intelligence and shall have the full range of management, budgetary, and personnel responsibilities needed to make the entire U.S. intelligence community operate as a coherent whole.

The House Permanent Select Committee on Intelligence's staff study entitled, ''IC21,'' or ''Intelligence Community in the 21st Century,'' stated:

> The [intelligence community] would benefit greatly from a more corporate approach to its basic functions. Central management should be strengthened, core competencies (collection, analysis, and operations) should be reinforced and infrastructure should be consolidated wherever possible.

The 9/11 Commission's Vice Chairman, Lee Hamilton, for whom I have a great deal of respect, admitted to our committee in open session that they really had not even considered more bold reform. He said the Commission simply looked at things they thought they could accomplish. I believe the word he may have used was ''pragmatic.'' They simply did not consider more bold reforms, so maybe we ought not to consider their recommendations as final. It is up to us. We have the ultimate responsibility of passing this bill. Are we going to pass what is pragmatic, what seems to be the least upsetting to the bureaucracies or do we want to be bold and pass something that will make the intelligence community work? Count me in the latter category.

Yesterday, my good friend, the chairman of the committee writing this bill, alluded to some of the concerns I have. When responding to concerns about DOD being shortchanged by the NID's budget authority, she reminded us all that ultimately the President determines the budget. That will always be the case. Let us not also forget that the bureaucracies of the OMB and many committees of the Senate and the House also determine the budget. There is simply too many ways to water down the limited real authority that budgetary powers provide. More real day-to-day authorities are needed, especially if we are to hold a NID accountable for our intelligence efforts. As bothersome as the OMB is in the effective operation of Government—I say that only half facetiously—does anybody think the OMB runs the agencies of Government? They mess them up sometimes. There are a lot of areas I can tell you where the OMB has shortchanged vitally important activities. But run them? I don't think so. Budgetary authority is not the same thing as running an agency.

The way I read the bill, it seems as though any agency or department that didn't want to chafe under a powerful NID has found a way out. This bill leaves the door open for several key agencies, such as the State Department's Bureau of Intelligence and Research, INR; major portions of the FBI'S intelligence operations capabilities; the Department of Energy's Office of Intelligence; the Treasury Department's Office of Terrorism and Financial Intelligence, and others, to avoid the authority of a NID. So under the Governmental Affairs bill, a NID who declares war on al-Qaida—as referenced by Chairman ROBERTS of the Intelligence Committee a few minutes ago—will have even fewer troops to try to muster for this war, and little additional power that doesn't already exist today.

Let us recall that every knowledgeable voice on this issue is adamant: If you create a NID, he must be given power; otherwise, you create an intelligence czar and have made the problem worse. We have created a drug czar

and all kinds of czars, but they are not able to get the job done. As I continue to listen to DOD proponents, I am concerned that insufficient authorities are granted in the GAC bill, and they will be even further eroded, putting us one step closer to creating an intelligence czar with a great title and very little authority.

One of the recurring themes we always hear on the Intelligence Committee—on which I have had the pleasure to serve for only a year and three-quarters—is the reluctance of the agencies to share information with those who need to know. We know all too well there are many legitimate reasons not to share intelligence. We understand the need to protect sources and methods. We also understand that decisions not to disseminate some information may rightly involve protecting U.S. civil liberties. But parochialism, poor information architectures, and bureaucratic confusion should not be included amongst the reasons to squirrel away intelligence that we need by cognizant analysts throughout the community.

Three years after 9/11, and after dozens of hearings in which intelligence community management describes ''seamless'' intelligence sharing, we end up prying a little deeper to find out that it simply is not the case. While there have been improvements in some areas of intelligence sharing, they are often done under duress. As soon as the ''heat'' is off, you can bet that those parochial agencies will return to intelligence hoarding, not intelligence sharing. We must empower a NID to force appropriate intelligence sharing even in times when the congressional and executive spotlights are not on the issue.

I believe it has already been referred to on the Senate floor that at a recent hearing, the intelligence committee was truly dumbfounded as we listened to different agencies talk about a specific threat. Two agencies had a very different view of the severity of that threat when they started talking to each other at the witness table.

One of the agencies said: We have information that you don't have.

They were supposed to be working on the same threat. I asked a dumb question. I said: Why didn't you share it? They said it was sensitive information. Well, wait a minute. They were trying to give us a recommendation on a very serious matter, and the two agencies that were supposed to work together on this serious matter didn't want to share information with each other? I used to think when we worked on a need-to-know basis, if you have a sensitive collection system, you need to keep the name and identity very closely guarded. They were happy to tell us in the Intelligence Committee the reason they were keeping a particular source on another matter in confidence was because it was so sensitive. I will tell you one thing. If you have ever seen a sieve, it looks too much like the Intelligence Committee. We don't need to know the names or even the identifying features of an intelligence source in the committee. But if that is the essential element on which the analysts are going to determine whether this particular source is reliable, they ought to be sharing it on a very limited basis with all of the people involved in the task.

I understand that the information that was gathered by the Iraqi Survey Group after the war was very effective because they brought in collectors and analysts from different agencies who were working on the same problem and they put their heads together. What a wonderful thing. They must have had a table. They laid out the information on the table. They did what informally is called ''red teaming'' and they came up with better estimates.

The NID, the national intelligence director, needs to be able to take care of this himself, not to negotiate with the positions with other departments or go to the White House and Congress and say, will you get these guys together to talk?

This reluctance to share information appears to be so deeply ingrained that only direct orders to do so are adequate, not budgetary influences.

Let me be candid. As a member of the Intelligence Committee I am convinced that the worst offenders of not sharing intelligence are the CIA and the NSA, but there are others. Arm twisting that is largely limited to budgetary problems and powers will not solve the problem. We know getting the information shared among agencies, red teaming, as they say, is very important. In other words, if the players are at the table, they are going to get their best result when everybody turns over their cards and shows what they are holding, but right now some of the agencies are going to the table and keeping their cards face down, saying, boy, we know some stuff, it is in our hand, and we are not going to show you.

Budget authority alone is not going to get them to turn over the cards. Red teaming cannot be successful unless the cards are turned over and the red team knows what cards the CIA is holding, for example.

Full deference should be given to civil liberties concerns, and I hope that the Collins-Lieberman provisions for improving information architectures within the intelligence community will allow for getting the right intelligence to the right people, and in the case of very sensitive intelligence or any other critical, possibly damaging intelligence, only to the right people. But it has to be gotten to the people who need it.

Some have argued that the Specter amendment will lead to too much centralized control, therefore group-think. Not likely. Let's be clear. The Specter amendment deals with national collection, entities of the NSA, NGA, portions of the DIA and CIA. This will help streamline collection and reduce inefficiencies. It will allow the NID truly to harness the collection capabilities against our Nation's primary threat: The terrorists.

This leaves capabilities organic to the DOD currently funded under the Joint Military Intelligence Program, JMIP, and the Tactical Intelligence and Related Activities, somewhat glamorously acronymed the TIARA, still firmly under DOD control, as they should be. DOD will not be shortchanged and our Nation will have a more effective collection effort.

Today, the DOD is the most voracious consumer of intelligence. That is why they have the lion's share of the intelligence budget and significant organic collection assets whose sole function is support to the warfighter. However, national collectors must be unified in an effort to meet national needs which include those of the key intelligence entities in our war or terror: DOD, CIA, FBI, and the Department of Homeland Security, where the appetite for terrorism-related intelligence collection will only continue to grow.

I heard debate yesterday on the combat support agencies. Nobody denies that these agencies, the NRO, the NSA, and the NGA, are still combat support agencies, but as their name suggests, they also serve national interests. When we examine this in a larger light, we realize that having these agencies report directly to the Secretary of Defense solely made sense during the Cold War. However, as I mentioned earlier in this statement, the decisions we make today will be with us for decades to come.

The world has changed. The war on terror is not going to go away soon. While DOD is still a voracious consumer of intelligence, it is now a partner with the CIA, FBI, the Department of Homeland Security, and others in the war on terrorism. As other agencies continue to join CIA and DOD as coequals, it makes sense to have a national intelligence director who can see to the needs of all of these agencies and best harness all national collection capabilities to meet our national needs.

Again, we need to look decades down the road. We must recognize the need to empower a NID to meet these needs. I believe Chairman ROBERTS has already mentioned this several times, but let me state that the Directors of the National Security Agency and the National Geospatial-Intelligence Agency stated that having their agencies transferred to the control of a NID would not degrade their level of support to the military. Considering their testimony, as well as other commentary and the maintenance of DOD's military intelligence collections, the Pentagon need not fear the Specter amendment in any way.

It so happens I have a personal interest in this. As many of my colleagues know, my son is a young ground intelligence second lieutenant in the Marine Corps. I certainly do not want to

do anything that would interfere with his or his comrades' ability to get the information, the intelligence, the estimates, and the tactical intelligence they need to leave them hanging out without adequate cover. My colleagues can bet I would never do that.

I conclude by giving some thoughts from Dr. David Kay, the interim head of the Iraqi Survey Group, who testified before us many times and who was a real bright light in gathering intelligence. He is certainly not afraid to speak the truth in spite of whom he may offend. He told the Intelligence Committee:

> I am concerned, however, that simply creating a national intelligence director, even one that seems to have—and we think has—real powers . . . and we think budget and personnel authority is real power, we will not end up addressing the real problems . . .

Well, budget and personnel authority is some power but, as Dr. Kay indicated, it is not real power.

Dr. Kay further stated:

> I think you need to place the national intelligence director in charge, charged by you, Congress, with ensuring that all of the collection assets of this government work to support the national intelligence strategies and priorities.

Dr. Kay recognizes the need for a unified collection effort. We cannot afford to waste or misuse scarce collection assets. I think Dr. Kay also knows the frustration of fragmented control quite well. He was a DCI special adviser on Iraq and then, as I have noted, headed the intelligence efforts of the Iraq Survey Group, or ISG. He wrestled with authorities quite frequently. In large part, this was due to the limited powers of the DCI vis-a-vis other department heads, but when they made progress is when they coordinated and cooperated and the agencies worked together.

I urge my colleagues to support the Specter amendment. This is a key fix to give the NID some of the powers he or she will need if we are to ask the NID to be accountable for our national intelligence effort.

I yield the floor.

Mr. SHELBY. Mr. President, I rise to express my strong support for the Specter amendment currently pending before the Senate. However, I want to first take a moment to commend Senator COLLINS and Senator LIEBERMAN for their hard work and dedication to this important legislation. These are difficult issues and I believe that we all strive to reach the same goal—a safer, more secure America. The question before us now is how we best accomplish that goal.

I have long advocated for significant overhaul of the intelligence community in order to change the way it operates and specifically who controls the community and its assets. For too long, the intelligence community has lacked a strong leader with the ability to command and control the multitude of agencies that operate as independent parts without a focused direction.

I do not believe that Congress's action in 1947 intended to create the intelligence framework we currently have—a framework where no one has the ability to direct the actions of the community as a whole. I believe that Congress intended to create a Director of Central Intelligence with clear lines of authority and accountability within the intelligence community—one that is much like what we are attempting to create now with a national intelligence director.

The underlying bill does take some important steps toward the creation of a national intelligence director with the power and authority to chart a path for real reform within the intelligence community. Unfortunately, I believe that the underlying bill fails to provide the national intelligence director with all of the authorities required to provide the unity of leadership and accountability necessary for real reform.

I believe that clear lines of authority between the national intelligence director and our national intelligence collection agencies, extending beyond budgetary control, are critical to our success in countering national security threats of the 21st century. The national intelligence director must have the ability to direct, supervise and control the elements of the intelligence community.

There must be no doubt in anyone's mind that the national intelligence director is in charge. Without the additional authorities that are provided in the Specter amendment, there will be doubt.

The Specter amendment seeks to eliminate any question about who is ultimately in charge of the intelligence community. With the additional authority included in this amendment, there will no longer be an opportunity for finger pointing and excuse making.

Ultimately, the national intelligence director will either be congratulated for the success of the intelligence community or held accountable for their failures.

I believe that budgetary authority is an important part of the overall structure of a strong national intelligence director. But beyond that, he or she must have day-to-day operational control of all elements of the intelligence community performing national intelligence collection missions, including the Central Intelligence Agency, the National Reconnaissance Office, the National Security Agency, and the National Geospatial-Intelligence Agency, and the humint parts of the Defense Intelligence Agency.

Giving the national intelligence director budget authority but not day-to-day operational control will leave the intelligence agencies serving two masters and will inevitably maintain the status quo that has continuously failed us. Fundamental change is a must if we are going to work to prevent any further attacks.

I believe this amendment serves as a perfect complement to the actions taken in the National Intelligence Reform bill. This amendment simply enhances the authority of the national intelligence director.

I continue to believe that change for the sake of change will do nothing to accomplish our goal. A powerful national intelligence director is a vital part of our future fight against the terrorists that have dedicated their lives for the purpose of destroying America and its citizens. If we truly want to create a strong national intelligence director who has the authorities necessary to command and control our intelligence community and its assets, we must pass the Specter amendment.

I urge my colleagues to take advantage of this opportunity and support this amendment to ensure that true change is possible through the enabling of a powerful national intelligence director.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose the Specter amendment and I will take a few minutes to explain my opposition. I think all of us are in favor of bold moves, of having a powerful new national intelligence director and having analysis that is independent and objective, much more so than has been the case in the last few decades and recently, to have that analysis done by a group which can bring together all of the information and come up with a coordinated position which is independent and objective, and the NCTC is able to do that.

This amendment would place the National Security Agency and the National Geospatial-Intelligence Agency, the NSA and the NGA, and the National Reconnaissance Office, the NRO, under the direction, supervision, and control of the national intelligence director and would do the same for the Director of the Defense Intelligence Agency regarding the national intelligence collection mission of the DIA.

In doing so, this amendment would have the national intelligence director basically be substituted for the Secretary of Defense in the military chain of command. There are thousands of uniformed members of our military who are currently in those agencies.

To break the chain of command and to say for the first time we are going to take thousands of uniformed personnel and put them under the supervision, direction, and control of a civilian agency head would create havoc inside of the military, would create a very unfortunate precedent, and would in the process be creating a new agency, a new agency that would require a supervisory staff similar to the supervisory staff that now exists in the Office of the Secretary of Defense for the agencies which would be transferred.

Those are the two major reasons I have problems. There is a third I want to talk about in a moment. But the two major reasons I have are that it would require the creation of a whole new supervisory bureaucracy for these

agencies in the national intelligence director's office. You cannot supervise these agencies, from the national intelligence director's perspective, without having people to engage in that supervision the way the Office of the Secretary of Defense now supervises and overseas these agencies. So we would be creating a new bureaucracy.

We should be breaking down walls between bureaucracies, not building up a new bureaucracy.

When the 9/11 Commission reached its conclusion and when they testified in front of us, they told us they decided not to create a department. They thought that would be overcentralization. They were bold. I don't think anybody can successfully argue here that the 9/11 Commission was not bold. They were bold. They made some major shifts, in terms of budget execution authority and in terms of personnel authority. In shifting those authorities over the agencies which we are debating here to the NID, they made a major decision relative to power, relative to control. But they decided they would not go toward a more centralized new agency; that they would rather coordinate with the budgeting personnel power in a new powerful NID but not create a new bureaucracy in the process.

There are many reasons why their decision—and I focus on the 9/11 Commission recommendation at our hearing—was a wise one. Their approach was not just bold in terms of recommending the transfer of budget and personnel authority, but it was wise in not creating a new bureaucracy in the process.

The chain of command is such that we now do not put large numbers of our uniformed military people outside of the chain of command and under the command and control of civilian supervisors. We do not do that. There is a purpose for having a chain of command from your commander inside the military, which is clear, which you must abide by. That is what you sign up for when you join the military and that is what is so essential to military effectiveness, that the chain of command be solid and that it not be broken in the way this amendment would break a chain of command.

These agencies we are talking about today are integral parts of the Defense Department. They are recognized for the support they provide to combat operations. Indeed, when the Congress adopted the Goldwater-Nichols Reorganization Act of 1986, we created the concept of ''command support agencies.'' Pursuant to that legislation, the DIA and the National Geospatial-Intelligence Agency have been designated by law as command support agencies. We hear that designation will continue. But it is pretty hard to square that with what this amendment proposes, which is that they would not be inside the military chain of command. They would still have the label but not the reality. They would be called combat support agencies, but they would not be in the chain of command of the Department of Defense.

The combat support functions of the DIA and the NSA and the NGA have been recognized in law. The Chairman of the Joint Chiefs of Staff is required by law to evaluate periodically, and not less often than every 2 years, the responsiveness and readiness of these agencies to support operating forces in the event of war or threats to national security. The pending amendment would preserve the form of the periodic review. That periodic review by the JCS Chairman of the combat support agencies of the intelligence community would be retained, but it would be a report which is in form only because it is the Secretary of Defense who is charged with being responsible for the combat capabilities of the Armed Forces.

The NID, the national intelligence director, does not have the responsibility that the Secretary of Defense has for the combat capabilities of our Armed Forces. So to simply say, well, there will still be a periodic review by the Chairman of the Joint Chiefs of the combat support agencies of this community, but then to say that report goes to the NID, the national intelligence director, instead of going to the person who we make responsible for the combat abilities of the Armed Forces, is a hollow gesture. It says that one thing will continue to be true, we will still call them a combat support agency, but when it comes to the real world of where that review goes, it will go to the person, the national intelligence director, who is not the person responsible for the combat capabilities of the Armed Forces. So we have a break in the chain of command, which is unprecedented, which creates all kinds of problems inside the military in terms of military effectiveness, which weakens not only the power of the Secretary of Defense but which undermines his responsibility to make sure we have full combat capability inside of the Department of Defense.

For these reasons, that we should not be creating a new bureaucracy, we should be breaking down walls of old bureaucracies; that this amendment would require new supervisory staff over these entities if they are going to be transferred to the national intelligence director in order to help him perform the supervision of these agencies, which is now performed by the Office of the Secretary of Defense; and because this would represent an unprecedented break in the chain of command that now exists, and which is so critical to our military effectiveness, I believe the 9/11 Commission reached the right balance. Their balance was one which was conscious and conscientious; it was bold but it was wise.

I have one other thought which I want to share and then I will yield. These agencies now do analysis on their own. We got some very important analysis before the Iraq war, in fact, from the Defense Intelligence Agency, analysis which was different from the analysis produced by the Central Intelligence Agency. If we are serious about wanting alternative views relative to intelligence; if we are serious, as the 9/11 Commission urges us to be and as I hope we are, about ending the politicization and misuse of intelligence to support policy positions; if we are serious about promoting objectivity and independence of analysis, we would want these agencies not to be shifted because their analysis should not be under the control of the national intelligence director. Their analysis should be independent and objective. For these agencies to be shifted outside of where they now are, separate from the national intelligence director, and put underneath his umbrella, is going to make us weaker when it comes to the most critically important reform we should be producing, which is to have objective, independent analysis of intelligence which can be provided to the policymakers and not shaped to support policies of the policymakers.

To remove these agencies that now are in a position to provide alternative analysis and to put them under the aegis of the national intelligence director will make that many fewer sources of independent, objective intelligence that will be available to our policymakers. That is a real loss.

There are other provisions in this bill and other provisions I hope will be added during the amendment process to promote the objectivity and independence of intelligence analysis.

We have had too much abuse in this area. We have had too much shaping and exaggeration, going back at least as far as the Gulf of Tonkin Resolution, when intelligence was misused, to the Iran-Contra years when intelligence was misused, shaped, and exaggerated in order to support particular policy positions, and the same thing happened before the Iraq war. We have to find ways to break down any kind of group-think, any kind of a monolithic approach to intelligence, and we have to make it more difficult for a national intelligence director to be doing the shaping, to be in total control of the analysis of intelligence.

That is why having an NCTC office separate from NID is so important. Having an NCTC director who is subject to the confirmation of the Senate is so important. That is why some of the other provisions which we were able to add in committee to promote the independence and objectivity of the intelligence analysis are so important.

We should not be reducing the numbers of sources of independent analysis of intelligence, as this amendment would do, by putting these agencies that now produce intelligence analysis under the aegis, supervision, and operational control of the national intelligence director. It is too much concentration of that critically important analysis power under one person. We

should be wary of doing that. We should be moving in a very different direction.

We should be finding ways to plot independence and objectivity of intelligence so we don't have a repeat of the fiasco we just saw where we had 500 pages, according to a bipartisan Intelligence Committee report, of instances where intelligence was shaped, stretched, and exaggerated, and they all moved in one direction. All those intelligence changes and all the shaping was moved in the direction of supporting a particular policy of the administration. That is a great danger.

This amendment, because it concentrates or would concentrate agencies that are currently involved in intelligence analysis under the NID, increases the danger rather than reduces the danger of having intelligence which is shaped to support policy rather than provide support for objective information and objective estimates to the policymakers.

I oppose this amendment. I hope it will be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator DEWINE be added as cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I am advised that Senator SHELBY would like to speak to the bill. He is now chairing the Banking Committee, which is hearing from the 9/11 Commission. I have talked to the manager of the bill. I ask unanimous consent that the pending amendment be set aside so we might start utilizing the time of the floor on another amendment which I intend to offer.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3761

Mr. SPECTER. 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 Pennsylvania [Mr. SPECTER], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3761.

Mr. SPECTER. 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 specify a term of service for the National Intelligence Director)

On page 10, between lines 16 and 17, insert the following:

(d) TERM OF OFFICE; REMOVAL.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

On page 10, line 17, strike ''(d)'' and insert ''(e)''.

On page 11, line 3, strike ''(e)'' and insert ''(f)''.

On page 11, line 5, strike ''subsection (c)'' and insert ''subsection (e)''.

Mr. SPECTER. Mr. President, this amendment would give the national intelligence director a 10-year term, the same kind of a term the Director of the Federal Bureau of Investigation now has. The debate on this bill generally has stressed—and appropriately so—the need for a strong, independent national intelligence director.

The interest of having policy determinations guide our new intelligence estimates has been stressed repeatedly. There is a very broad, historical precedent of the desirability of taking steps to guarantee to the maximum extent possible that the intelligence estimates will be independent and will not be in line to try to promote some specific policy objective.

The 10-year term, as I say, is modeled after the term of the Director of the Federal Bureau of Investigation.

When I offered this amendment in committee, I had a provision for removal only for cause. After considering the matter, I have stricken that provision because I believe it is unnecessary. I believe by analogy to the FBI Director, the inference is plain that the removal can be only for cause.

I will refer very briefly to comments by Senator BYRD on July 26 of 1976 when the FBI Director was given the 10-year term. Senator BYRD said, ''The setting of a 10-year term of office by Congress would as a practical matter preclude or at least inhibit a President from arbitrarily dismissing an FBI director for political reasons.''

Senator BYRD goes on to note that obviously a successor would have to be confirmed by the Senate. But there could not be the removal of the FBI Director for political reasons. The implication is pretty clear that removal can only be for cause.

The additional views of Senator LEVIN on the national intelligence reform bill which he submitted on September 27 contain a very good summary of authorities on this proposition generally. I am going to cite a number of the authorities which Senator LEVIN referred to in those additional views. I complimented Senator LEVIN a few moments ago on the floor of the Senate for the quality of his views which he submitted and said I was going to quote him. He said it was unnecessary, but I believe in the interest of full disclosure that it is good to give Senator LEVIN that credit.

The references to what happened with the Gulf of Tonkin Resolution where that intelligence reports were used—and inappropriately used—for representations about intelligence to support the administration's position are well known historically. The Secretary of Defense at that time, McNamara, cited classified information to support the passage of the Gulf of Tonkin Resolution which President Lyndon Johnson wanted. Those citations were made to support the conclusion that the Gulf of Tonkin Resolution ought to be adopted.

The analyst for the National Security Archive, John Prados, said that Secretary McNamara used the intercepts as a ''trump card'' during the 1964 hearings to ''silence doubters.'' According to the views of Mr. Prados, Secretary McNamara asserted that ''intelligence reports from a highly classified and unimpeachable source reported that North Vietnam was making preparations to attack our destroyers, and ''the attack was underway.'' Finally, ''The North Vietnamese lost two ships in the engagement.'' Those materials turned out to be unsubstantiated, as a matter of fact.

It was notorious that Central Intelligence Director William Casey misrepresented intelligence during the Iran-Contra period. The bipartisan Iran-Contra report specified that Director Casey ''misrepresented or selectively used available intelligence to support the policy that he was promoting.''

In former Director of the Central Intelligence Agency, Robert Gates' memoirs entitled ''From the Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War,'' former CIA Director Gates said or referred to Bill Casey as a DCI who had his own foreign policy agenda and had the estimating program as a powerful instrument in forcing the pace of the policy area.

Former Secretary of State George Shultz, in his memoir ''Turmoil and Triumph, My Years as Secretary of State,'' published in 1993, referred to former Director of the CIA Bill Casey, who had very strong policy positions and was so ideological that they inevitably colored his selection and assessment of materials, once again, using the position of intelligence director to have a determination of policy.

Former Director of the CIA and also former Director of the FBI William Webster testified before the Senate Governmental Affairs Committee on August 16 of this year and said:

With respect to relations with the President, while the leader of the intelligence community must be the principal adviser on intelligence to the President, he must work hard, very hard, to avoid either the reality or the perception that intelligence is being framed or that is read, spun, to support a foreign policy of the administration.

The 10-year term, so it does not coincide with the term of the President, is designed to give the national intelligence director the reality of independence and certainly to avoid the

perception that the intelligence is being spun for the interests of the chief executive.

Two days after Judge Webster testified, the Senate Select Committee on Intelligence heard from former chief weapons inspector David Kay, who said:

> Intelligence must serve the Nation and speak truth to power even if in some cases elected leaders choose, as is their right, to disagree with the intelligence with which they are presented. This means that intelligence should not be part of the political apparatus or process.

A 10-year term would seek to ensure, guarantee, that the national intelligence director was independent, and was not a part of the political process or apparatus.

Mr. Kay went on to say:

> This is, I think, if you move forward on a national intelligence director legislation, is going to be the hardest thing to communicate, that the national intelligence director must serve the national security objectives of the Nation, and he serves whoever is the President best by giving him unvarnished truth, which will often not be welcome.

Again, a 10-year term would guarantee that kind of independence to the national intelligence director.

On the same day, former GEN Charles Boyd told the Intelligence Committee of the enormous pressures that political appointees are under to ''give the President what he wants rather than what he doesn't want but needs,'' and the upshot of what General Boyd had to say was that rather than seeking a special and close relationship to the President, General Boyd articulates a standard for an intelligence director ''ought to be his distance from the President, his independence of the President, his professionalism and be respected as such.''

Again, a 10-year term would promote that.

A few days ago, on September 21, the very distinguished Center for Strategic and International Studies, a group consisting of former Senators and former Secretaries of Defense, former Directors of the Central Intelligence Agency, and two former Secretaries of State, had this to say:

> When intelligence and policy are too closely tied the demands of policymakers can distort intelligence and intelligence analysis, can hijack the policy development process. It is crucial to ensuring the separation that the intelligence community leader have no policy role. A single individual with a last word on intelligence and some policy as well could be a dangerously powerful actor in the national security arena using intelligence to advocate for particular policy positions, budget requests, or weapon systems that often lack the knowledge to challenge.

Here, again, the citation of authorities supports the concept that the national intelligence director ought to be objective, ought not to be seeking to promote any special policy of the chief executive and all of that would be enhanced by the 10-year term.

The amendment which I offer, I do so on behalf of the Senator from California, Senator FEINSTEIN, and myself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I certainly understand the intent of the Senator from Pennsylvania in offering this amendment. Indeed, he offered it during the markup of the Governmental Affairs Committee. It was debated at length.

Initially, in considering this issue, I, too, was inclined to believe that the new national intelligence director should have some sort of term of office. However, the testimony we heard through our eight hearings changed my mind in this regard.

Under our legislation, S. 2845, the NID serves as the principal adviser to the President. The individual not only manages the intelligence community and heads up the new national intelligence authority, but serves as the principal adviser to the President. I am stressing that role because I believe that is key to why the director, in fact, should not have a fixed term. It is essential that the NID enjoy the full confidence and trust of the President of the United States. That was a point made by the 9/11 Commission chairman, Tom Kean, at our very first hearing on July 30. But we heard that repeated time and again by our witnesses. All of the former DCIs who came before the committee, representing a variety of times and administrations, were unanimous in their view that the new NID should serve at the pleasure of the President.

The then Acting Director of the CIA John McLaughlin made the point at our September 8 hearing that for the NID to successfully clarify our assignment of serving as the principal adviser to the President, he must enjoy the President's trust and confidence.

Consider a situation where the Presidency changes parties during that 10-year-period. It would be very awkward for a new President of a different party to inherit the national intelligence director from the previous administration. Their world views and philosophy may have nothing in common. Yet the President has to have a close and trusting relationship with the national intelligence director. The President should be able to choose his or her own person for that critical post.

Proponents of having a 10-year term have frequently compared this proposal to the 10-year term of the Director of the FBI. I would note that I asked Director Mueller whether he thought the new NID should have a 10-year term similar to his. He said he did not think a 10-year term or any fixed term was appropriate for the national intelligence director. He said the role of the FBI Director is very different from the role of the national intelligence director.

Over and over again during our hearings, Senator LIEBERMAN and I raised this question with the witnesses because we, too, were trying to reach the right determination. Over and over again, the advice was the same, whether it was the 9/11 Commission, the Acting Director of the CIA, the former Directors of the CIA, or Director Mueller of the FBI. Over and over again, they advised against setting a term.

So we need to create a position where the individual will enjoy the full confidence and trust of the President of the United States. That is the only way that individual can effectively carry out the role he is assigned in this legislation to serve as the President's principal intelligence adviser.

For these reasons, I urge my colleagues to oppose the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I also rise to oppose this amendment by the Senator from Pennsylvania. This is, as Senator COLLINS has indicated, a matter we discussed in what I thought was a very thoughtful discussion in our committee deliberation on a similar amendment.

There are good arguments on both sides. The objective here is to balance the independence we want our national intelligence director to have with the importance of having a trusting relationship with the President of the United States. In the end, I concluded it would be wrong to give a fixed term to the national intelligence director for the reason to which I just heard Senator COLLINS refer.

Remember, we have given the national intelligence director two main responsibilities. One is to administer the intelligence community. The other is to be the principal intelligence adviser to the President of the United States. In fact, one could argue, although the national intelligence director as administrator has many customers, if you will, for intelligence, the No. 1 customer is the President of the United States as President and certainly as Commander in Chief. So that is a relationship that must be a trusting relationship.

The danger is that an incoming President will be given someone in whom he does not have that kind of confidence. Unfortunately, history—recent history—gives us an example of that, without attributing blame. President Clinton and then-Director of the FBI, Mr. Freeh, had a relationship that was not mutually confident, and, therefore, he had somebody in that critical position who had very little contact with the President of the United States. He was Director of the FBI, not the principal personal intelligence adviser in the sense of giving advice personally to the President of the United States.

The concern about the independence of the national intelligence adviser is an important one. I feel very strongly that in this bill Senator COLLINS and I offer, and our committee offers to the Senate, we have done a lot to protect the independence of the national intelligence director.

For instance, contrary to the original proposal of the 9/11 Commission, which proposed that this office of the national intelligence director be in the White House, we said no, that may raise questions and in fact problems with regard to the independence of the NID if he or she is just down the hall from the President. That ought to be out of the Executive Office of the President and established as an independent agency.

We went well beyond that in a title particularly that was added in our committee, most of the work of which was done by Senator LEVIN, which is all about the independence of the office, the objectivity of the intelligence that the adviser, the director gives to the President, to the country, to the agencies he serves, independence even to the extent that we say the national intelligence director should be like the Chairman of the Federal Reserve Board in this sense: that he does not need administration approval to testify before Congress, does not need his testimony cleared, if you will, by the OMB.

So there is a lot built in here that is meant to guarantee, as best a statute can, the independence of this office, without hamstringing—if that is the right phrase here—a President with a national intelligence director in whom he does not have trust or in whom he loses trust as time goes on.

But this is that critical a position. I would not want to give a national intelligence director a set term any more than I would want to give a Secretary of Defense, Secretary of State, Director of OMB, or National Security Adviser fixed terms. These are positions that must every day be filled by people who enjoy the confidence and trust of the President of the United States.

For that reason, I oppose the amendment and urge our colleagues to do so as well.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I think Senator LIEBERMAN has advanced an argument in support of my amendment. If I could have the attention of Senator LIEBERMAN, when I quote him, I want to quote him to his face. I want him to hear what I have to say.

I say to Senator LIEBERMAN, we agree more often than we disagree, although we are at odds on two of my amendments today.

But when the distinguished Senator from Connecticut cites the relationship between President Clinton and FBI Director Freeh, I think he is supporting my argument. He is supporting my argument about the need for independence. There was an investigation being conducted by the FBI on campaign finance irregularities, and the President—I would not call him a subject, but he was a part of those who were being looked into on the soft money issue.

Then, without unduly belaboring the point, on this floor we had the impeachment proceeding. Issues involved were obstruction of justice and perjury. So the kind of independence the Director of FBI had by virtue of a 10-year term, I think, served the Nation well.

Going back to the administration of President Nixon, without going into any detail, you had activities by the FBI Director which led to this 10-year term to insulate the Director from the appointing authority by the President.

When the chairwoman refers to a philosophy of having the national intelligence director, appointed by a preceding President, serving the President, I suggest this is not like a Cabinet officer, such as the Secretary of State or the Secretary of Defense, who is supposed to carry out the policy of the President, who is supposed to have the same philosophy. Here we have a national intelligence director who is supposed to tell the President what the objective facts are on intelligence. It is inevitable in human relations, if you know what somebody wants to hear, an inclination to tell somebody what that person wants to hear, especially if that person is the appointing power.

So on the question of confidence and trust, I think the American people would have more confidence and trust in a national intelligence director who is independent from the President.

When the talk and the argument is made about an adviser, here again, the national intelligence director is not an adviser like the Secretary of State or the Secretary of the Treasury or the Secretary of Health and Human Services, carrying out the President's policies and seeking to give him advice to carry out those policies. Here we want somebody who will be strong and independent and objective and tell it like it is, even if it is not what the President wants to hear, and even if it contradicts the policies which the President wants to carry out.

This bill does contain some elements stressing the independence of the national intelligence director such as not requiring permission to testify before Congress, putting affirmative obligations on the national intelligence director to keep the Congress informed as well as the chief executive informed.

I think this is an important addition, to have a strong, independent, objective national intelligence director.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, first let me say to Senator SPECTER that he is quite right, we do, much more often than not, agree on matters. Unfortunately this amendment is not one of them, notwithstanding the arguments he just made.

There is an interesting historical note we are familiar with that when the 10-year term for the FBI Director came into effect, I was not here, but I gather it was as a matter of reform as against the effective lifetime term that the former Director, Mr. Hoover, had. So that was in that reality.

Here is the circumstance I am worried about. We have done everything we can in this bill to create independence in the national intelligence director position and to set standards that say: You have to level with the President. The worst thing that can happen is if you feel you have to create a good personal relationship and satisfy policy desires. In fact, we have language in here that is quite remarkable that says the national director ''must provide intelligence to the President that is timely, objective, independent of political consideration, and based on all sources available to the intelligence community, information that has not been shaped to serve policy considerations, that comes from a variety of intelligence assessments and analytical views.''

I am quoting directly from our proposal.

We have set up the office of ombudsman, a very unusual office, and, thanks to a combination of Senator ROCKEFELLER and Senator SHELBY, created within it an analytical review unit which will do a kind of quality control on the work of the intelligence director, again to try to ensure that there is a real independence and objectivity and willingness to speak the truth.

The situation I would worry about, if we have a director for a fixed year term of 10 years, would be that the President simply loses confidence in that director for one reason or another. So on critically important questions such as we have seen in our time—do you send American troops into combat, what foreign policy do we adopt toward threatening nations such as Iran and North Korea—if you have a President lacking confidence or trust, and it could be in the competence of the individual or in his or her dispassion or objectivity, you leave the President either without adequate intelligence advice on matters of great national importance or you encourage the President to end-run the national intelligence director, go directly to the head of the CIA and other agencies. That is not a healthy situation.

Of course, it totally undercuts exactly what we are trying do to do, which is to create a national intelligence director who will oversee the total intelligence community. For those reasons, in this situation, I continue to oppose the Specter amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I ask unanimous consent that at 2 p.m. today, the Senate proceed to a vote in relation to the Specter amendment No. 3761, regarding a 10-year term, provided that no amendment be in order to the amendment prior to that vote. I also ask consent that following that vote, the Senate proceed to a vote in relation to the Specter amendment No. 3706 regarding the NID consolidation, again with no second degrees in order

to the amendment prior to the vote on the first degree. And finally, I ask that the order with respect to the statements of Senator HARKIN and Senator STEVENS begin following those two votes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, could we change that request to 2:15 p.m. rather than 2 o'clock?

Ms. COLLINS. I would so modify the request.

Mr. REID. The other is in the form of a question. What could happen here is one person could get the floor and keep it until 2:15. We need some ability to make sure there is an equitable distribution of time during the next 2 hours. I am wondering if the chairmen have an idea how we can divide the time. I see a couple of Senators on the floor. Any one of them could get the floor and talk until 2:15.

Ms. COLLINS. I would say to the Senator that we would welcome people coming to the floor with their amendments. Generally, these amendments are not breaking down along party lines.

Mr. REID. We have two votes set at 2:15. My question, though, is, are we going to divide the time prior to that or just let things happen as they will? That is fine with us.

Mr. LIEBERMAN. Madam President, if I may answer the question, my hope is—and I believe it is the chairman's hope—that we will stay on the bill and people will come over and introduce more amendments, that we have more debate between now and 2:15.

Mr. REID. Is my friend saying the debate is basically completed on these two amendments?

Ms. COLLINS. Senator SHELBY and Senator DEWINE wish to speak.

Mr. REID. If the two managers don't have a concern, I don't either. What we would do is, if the statements are completed, there would be nothing wrong with people setting the amendments aside and offering other amendments.

Mr. LIEBERMAN. Absolutely.

Ms. COLLINS. I believe we are very near the end of the debate.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I come to the floor to support the Specter amendment. I would first like to congratulate my colleague from Maine for the fine job she has done. This is a very difficult bill to put together. It has taken a lot of work. She and Senator LIEBERMAN are certainly to be congratulated.

I would call everyone's attention to the fact that the 9/11 Commission was not the first commission to point out the need for more power in the person who is in charge of our intelligence. Just about every commission that has looked at intelligence reform has come to this conclusion.

Beginning in 1947, the period right after World War II gave birth to the modern intelligence community. Ever since then, this has been a problem. There was a grand compromise that was made at that time and that compromise set us on this path. The situation, though, has gotten worse and worse as time has gone on. And as some of my colleagues have pointed out, we have reached the point where, when George Tenet knew and understood, as frankly few people in this country did, about the threat from Osama bin Laden and al-Qaida and declared war, he looked around and frankly did not have the troops. And the reason he did not have the troops was he did not control the budget. He did not have the power.

He had the responsibility, but he did not have the power. So we have a problem and everybody, I think, understands that. My concern all along has been that we would create this new position, supposedly over the entire intelligence community. Yet this new position would not have the authority. I think Senator COLLINS and Senator LIEBERMAN have given that person authority, but I don't think, frankly, they have gone far enough.

If you look at the language Senator SPECTER has included in his amendment, it is a significant improvement over the language of this bill. I ask my colleagues to read the language. If you are concerned about giving this person authority, the Specter language is much better. The worst thing we could do would be to create this new position and think we have given him or her authority and not have given them the authority.

I wonder if I may get the attention of my colleague from Maine at this time, if I may explore with the Senator part of this bill. Again, I thank my colleague for the great work she has done on this bill. I believe she has done a very good job. I am trying to understand the language. As I have told her privately and I have told her again publicly, I prefer the Specter language. But I would like to clarify a little bit what this new position, the NID position—whoever occupies it—what he or she would be able to do under the Senator's bill. If I may pose a couple of questions.

If we can start with the NGA and the whole issue of the satellites, this has been a problem in the past. We don't have to on the floor today go over the problem of the moving of satellites. I ask my colleague this. Let's say that the NID did, in fact, want to move a satellite positioned on country A, and wants to get intelligence from country Z. What ability does that person have to do that? Can you point to the specific language in the bill that would get this done very quickly?

Ms. COLLINS. Madam President, I will find the specific language to show the Senator from Ohio. I have the language. The NID would establish collection and analysis requirements for the Intelligence Community, determine collection and analysis priorities, manage and issue collection and analysis tasking, and resolve conflicts in the tasking abilities of the intelligence community. So the language is very clear that the NID would have enhanced authority to resolve the kinds of conflicts that sometimes do occur now on the allocation of satellite resources, for example.

Mr. DEWINE. So it is the Senator's feeling that—and everything is very time sensitive—in a matter of hours this person could make the decision and basically order this to be done?

Ms. COLLINS. The Senator is correct. Perhaps it will be of some comfort to the Senator from Ohio to know that the language in this regard was suggested to our committee by Senator ROBERTS and comes from his bill. There is very strong language regarding the issue the Senator has raised.

Mr. DEWINE. I appreciate that. If my colleague could answer this: In a real-world situation, when we are dealing with satellites—and we will not go into the countries on the floor—if a decision had to be made in a matter of hours, if we need this information and we need to move from here to there, could that be ordered? I am using the word ''ordered.'' I am not talking about consultation or prayer together. I am talking about ordering it. Can that be ordered? Can this person order this to be done, saying it will be done, I don't care what anybody else says?

Ms. COLLINS. As I indicated to the Senator from Ohio—and I thought I was very clear in answering his question—it says the NID can issue directions in the collection and analysis tasking. I think the language is very clear that the answer is yes.

Mr. DEWINE. I appreciate what the language is, but I want to know, for the history we are establishing today, if my colleague believes that would include the term ''order.'' In other words, a direction that this will be done.

Ms. COLLINS. The term of art is the issue. That is the correct legal language to use. It is adopted from Senator ROBERTS' bill. My answer is yes.

Mr. DEWINE. I appreciate that.

Mr. LIEBERMAN. If the chairman will yield, these are very important questions the Senator from Ohio is raising. I want to assure him, first, that we raised the same questions during our committee's deliberation, including meetings with the heads of these national intelligence agencies that are within the Department of Defense. The Senator from Ohio is undoubtedly aware of the reality, which is that the current Director of Central Intelligence has the authority under law to convene a committee, an interagency committee, which every day apparently makes, as one witness said to us, thousands of decisions about where our signal intelligence and image intelligence assets go. In fact, one of the heads of an agency said he didn't remember a time when there was an inability to agree. There is also, clearly,

in the end, both in current law, as I understand it, and in the proposal we are making, if the rare situation occurs, you have to have somebody in power to make that decision. Now it is the CIA. Under our proposal, it would be the national intelligence director.

Mr. DEWINE. I appreciate the response. I was just saying to my colleague that my understanding of the reading of recent history has been that the power has not been adequate, with all due respect, and that the history has indicated there have been times when it has not been satisfactory, the results have not been where they should have been, which would indicate to me that the status quo is not acceptable. That is why I am asking whether the new language—I am trying to understand whether the new language is a significant improvement over the status quo. We are on the floor under the understanding that the status quo is not acceptable. I congratulate my colleagues for trying to improve the status quo. I know they are working to do that. That is why I asked that question.

Let me move on to another question.

Mr. LIEBERMAN. If the Senator will yield, if I may respond. I want to refer the Senator to page 14 of our bill in section 4, enumerating the powers of the national intelligence director. We say ''establish collection and analysis requirements for the intelligence community to determine collection and analysis priorities, issue and manage collection analysis tasking, and resolve conflicts in the tasking of elements of the intelligence community within the national intelligence program, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President.''

So this is language that completely mirrors existing statute for the Director of Central Intelligence. From testimony we heard, it is fortunately working very well that the conflicts, by the testimony of at least one head of one of the agencies, just do not occur; they work it out.

Mr. DEWINE. I say to my colleague that there are Members besides myself who can privately tell the Senator that there is a history that would indicate this does not work, that the status quo is not acceptable.

If what the Senator is telling me today is this is not really much change from the status quo, then I say to my colleague that we have a major problem.

I reference the language in the old law. I think my colleague may be right, and let me read the old law, which is the status quo today, and this is the power that the head of the intelligence community has today: establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community; next, approve collection requirements; determine collection priorities and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President.

Just on its face, one would think that resolving these conflicts is already given to the DCI today, and that is why, frankly, I prefer the language of the Specter amendment which talks about the director overseeing the execution of the national intelligence program and to supervise, direct, and control the operations, which to me is the key language.

I yield to my colleague.

Ms. COLLINS. If the Senator would yield on that point, I do not want the Senator to mistakenly believe there are no changes in our bill with regard to current law. There is a very critical change.

Mr. DEWINE. If I could reclaim my time, the problem is the colleague of the Senator just told me there was not much of a change at all, and this is the problem with the language: One of the Senators saying there is a change and the other saying there is not much change. That is ambiguous, which is the problem, with all due respect to both of my colleagues, who are great friends. It is the language; it is not the Senators.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Perhaps it was my language that was confusing. I do not think the statutory language is.

The fact is, there is an addition of authority to the NID—there is no question about that—that the DCI does not have, and that is to issue and manage collection and analysis tasking.

What I was trying to say earlier, and I want to distinguish this, is the current law enables the DCI to convene the agency representatives, which they do every day, to resolve and decide where our national assets go, and then to resolve a conflict, as described in the language that I read from, which is what the current DCI has.

We have added, very importantly, and the Senator is right, the ability of the national intelligence director additionally to issue and manage collection and analysis tasking.

Mr. DEWINE. Reclaiming my time, so there is a change?

Ms. COLLINS. If the Senator will yield?

Mr. DEWINE. I will yield.

Ms. COLLINS. There is a very significant change, as I said to the Senator when he first raised this very important question. We recognize that the current Director of the CIA cannot issue tasking, cannot require the collection of information, under this section of the law. That is why we took language recommended by Senator ROBERTS, included it in the bill that I believe the Senator from Ohio may have cosponsored, which strengthened that authority by adding the language, ''issue and manage collection and analysis tasking.'' That is not in current law.

Mr. DEWINE. I appreciate that. I will have to go back and study this a little bit more.

I say to my colleague from Maine, I am happy with her answer when she responded to my question, can this be ordered, and her response, I believe, was yes. In other words, under her bill the NID could order the satellite to be moved. Because I think there is a problem.

The evidence is that in the past there have been some problems—I am not saying it is a problem that occurs all the time; it probably gets worked out most of the time—but there have been some problems and I think this needs to be a situation where there has been a problem or there might be a problem, be ordered, it has to be. So I certainly appreciate the response.

Let me ask another question, if I could. Moving to the area of signal intelligence, NSA, let us say the NID, under the Senator's bill, decided it was in our national interest to move the assets, move the resources, from listening to country X to terrorist Y organization. It is the same type of issue but again a real world issue. We are moving our assets; we have to make this decision very quickly in the real world. Could that person order that to be done?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. If the Senator would yield for a response.

Mr. DEWINE. I yield.

Ms. COLLINS. My answer would be the same. The NID has the authority, has the power, to use the words of Senator from Ohio, to issue these orders, to task these agencies to carry out these directives.

I note that because the NID has the authority to manage the budgets of these agencies, he has a pretty big stick to use as enforcement.

Mr. DEWINE. If we can just talk back and forth a minute, let me interject and then the Senator can respond. I appreciate the progress the Senator has made in regard to the budget, and I think that is very important, but we have seen from our work on the Intelligence Committee, in looking at the intelligence community, a lot of these decisions that are being dealt with in the real world, are very time sensitive so when a budget change is made, we are talking about the next year or 2 years. Those are very important. They are changing directions. That is important. So I congratulate the Senator for making that change.

I am not concerned that the Senator has not done that in her bill. The Senator has done that. What I am concerned about is the execution. For example, I see in the Specter language: direct, oversee, execute the national intelligence program. Then he goes on to say: supervise, direct, and control the operations of the Central Intelligence Agency, the National Security Agency, et cetera.

So what I see in the Specter language that gives me a great deal of comfort is

''supervise, direct, control operations.'' To me, ''operations'' is the key language because now we are dealing with things that are very time sensitive.

What I worry about is not the long-term planning. I am convinced that the Senator has taken care of that and I congratulate her for that. What I worry about is real world examples that I have now, such as we are listening to one country, or we have assets over here that we need to move very quickly over here and target a terrorist organization, and say we have limited assets, can we do that. It is a hypothetical, but could that decision be made?

Ms. COLLINS. Madam President, I think the Senator from Ohio is raising excellent, important questions in this debate, but he is creating a misimpression of what the bill does with regard to budget authority.

This is not 1 year off or 2 years off. The NID has budget execution authority, not just putting the budget together for presentation and recommendation to the President; he executes the budget as the year goes by. He has strong authority to reprogram funds with congressional approval and notification, I hasten to say, and to transfer funds.

He has extensive authority to transfer personnel. He has the right under our bill to appoint the heads of these agencies with concurrence from the Secretary of Defense. That is a major change from current law.

If the Senator from Ohio is saying, as he is, that the NID should have direct line authority over the day-to-day operations of these combat support agencies, I disagree with the Senator from Ohio. I believe it does not make sense and, in fact, the NID could not handle running these agencies day to day. As Senator LEVIN indicated earlier, you would have to create an enormous supervisory staff within the office of the NID if you were going to transfer that authority from the Secretary of Defense. Clearly, the NID has the authority to direct the collection and analysis of information by the heads of these agencies, but I do not think he should be running them day to day.

Mr. DEWINE. If I could follow that up with a question, since the Senator raised it—and I think I know her answer, but I want to make sure I do understand her answer—talking about moving people around, according to the newspapers—this is what is published in the newspapers—there is a problem with a backlog apparently in listening to tapes of intercepts, at least that is what has been in the newspaper. Would the NID have the authority to move linguists from one agency to another to correct that problem? For example, if they had to, they could move them from the DIA to the CIA?

Ms. COLLINS. Absolutely.

Mr. DEWINE. This person, he or she, could pick up the phone and say: We are going to move 50 people, 100 people from over here to over there?

Ms. COLLINS. Absolutely.

Mr. DEWINE. This person does not have to call the SECDEF, does not have to do anything?

Ms. COLLINS. If the Senator will yield so I can respond to his question.

Mr. DEWINE. Surely.

Ms. COLLINS. There is very strong authority for the NID to transfer personnel who are working within the national intelligence program throughout the Federal Government and, indeed, I would envision the staffing of the National Counterterrorism Center would come from the NID taking linguists, analysts, operatives, collectors—all sorts of expertise—from the various intelligence agencies. And I know for a fact we need to give the NID that power because I visited with the head of the Terrorist Threat Integration Center who does not have that power and finds it very difficult to get the personnel resources he needs.

Mr. DEWINE. I appreciate the answer. So the Senator is saying this person can actually go in to DIA and say: I want those people. I want them. We are going to take them from DIA, and we are going to put them over here at CIA because I know best what the priorities need to be, and this is national security, and we are going to get it done.

Ms. COLLINS. Will the Senator yield for a response?

Mr. DEWINE. I certainly will.

Ms. COLLINS. The DIA employees who are part of the national intelligence program, yes, the answer is yes. DIA employees who are part of DOD's tactical intelligence programs, which are outside the scope of the authority of the NID, the answer in that case would be no. So it depends. But if they are part of the national intelligence program, which thousands of DIA employees are, the answer is yes.

Mr. DEWINE. I appreciate that. What I do not understand, though, is what I thought I heard earlier on about the Senator's distinction between tasking and control. That does sound like control to me. The Senator from Maine is saying they can task but they cannot control. Basically, that sounds like control to me if you can move someone.

Ms. COLLINS. I disagree with the Senator, so I do not know how to respond. I was saying the NID does not run the day-to-day, daily operations of the NSA, for example.

Mr. DEWINE. And I appreciate that. But in direct response to my question, the Senator is saying that person could, in fact, make that command decision, pick up the phone and say, ''We are moving 50 people,'' and that would be done, and that would be it. I want to make sure on the record because I think it is going to be very important 2 years from now or 18 months from now, and I would hate for the NID person to come before our committee and say: ''I can't move people around.''

Ms. COLLINS. If the Senator will yield for a response.

Mr. DEWINE. I am happy to yield.

Ms. COLLINS. Madam President, I direct the Senator from Ohio to the exact language in the bill. On page 27, starting on line 21:

> (C) in accordance with procedures to be developed by the National Intelligence Director, transfer personnel of the intelligence community funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community;

I think that language is crystal clear that the NID could, indeed, take a linguist from the counterterrorism division of the FBI and transfer that individual to the National Counterterrorism Center, or an analyst from DIA who is funded through the national intelligence program and shift that individual to the counterterrorism center. I think it is very clear.

Mr. DEWINE. I thank my colleague from Maine for answering these questions. As always, she is very eloquent and has been very thoughtful in her questions and her work on the bill. I congratulate her for the good work she has done.

Madam President, I do appreciate my colleague's answers. I will be voting in favor of the Specter amendment simply because I think it is more clear. I think it adds something to this bill. I think it makes it more specific. It is clear. When we are done with our work, then it will be up to the great bureaucracy, the men and women who are out there to defend us—and I do not use ''bureaucracy'' in a derogatory way at all; these are great people doing wonderful work out there who are defending us—it will be up to them to make this work. We have an obligation to do our best to give them something that will work and to give them the language that will allow the clearest lines of authority.

I believe if you take the Collins-Lieberman bill, which is good work, and you then add the Specter amendment, the Specter amendment makes it clearer, makes it more precise, and makes the lines of authority much easier to understand.

I believe it also will deal with a concern I have had for a long time, as we saw this reform coming, and that is my fear that we would create this new position, give them authority, and do a pretty good job, but not quite give them all the authority this person needs.

We have had the opportunity in the Intelligence Committee to listen to some of the things that have gone wrong for the last few years, and there have been a lot of things that have gone wrong. It is not only organization. It is not only line authority. It is not only the fact that the DCI did not have enough power, but that is part of it. This bill goes a ways to deal with that. I believe the Specter amendment improves it further and makes it clearer, and is the right way to go.

Somebody has to be in charge. The buck has to stop somewhere. Never

again do we want to be in a position where it is not clear who is in charge. Never again does this country want to be in a position where the top person in intelligence doesn't have all the authority he or she needs to protect us, to protect our children, to protect our families. The Specter amendment will make it very clear where the buck stops. The buck will stop with this person whom we are now calling the NID and who is called the NID under the Collins-Lieberman bill. So I will vote in favor of the Specter amendment. I urge my colleagues to vote in favor of it as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I wonder if the Senator from Ohio would address a question which his question raised in my mind, having spent a lot of time trying to figure out what the line is, in terms of supervision and control. Let me put the hypothetical this way. I would also appreciate the managers perhaps listening to it as well.

We have a new national intelligence director. The first question the Senator from Ohio asked, the first that I heard, at least, was: Can that director direct, order—in the words of the chairman, ''task''—the collection, let's say, of signals intelligence in Iraq instead of Afghanistan? Can he or she make that decision?

We only have certain resources. We have to allocate them. Can that director, after consulting, presumably—because these are day-to-day consultations, as the Senator from Connecticut says; these go on every single day, these decisions on allocations and priorities. But hopefully, after going through that process, can that NID, that director, say: OK, folks, I have heard it; we have to make a decision. We are collecting signals in Iraq; we are not going to do it in Afghanistan.

The chairman's answer was ''yes.'' It seems to me that ought to be very reassuring to folks.

The next question is, should that director be responsible for deciding which airplane it is that is going to do the collection? My good friend from Ohio says no, I think, shaking his head no. But that is what is left to the day-to-day operations. That is why you need to leave that decision on which airplane is going to go over Iraq to the day-to-day operational decisions inside of that agency. You can't transfer all of those decisions to a NID. That is where I think the Senator from Ohio would draw the line, I hope. That is clearly where I draw the line.

Mr. DEWINE. If I could respond?

Mr. LEVIN. I am happy to yield.

Mr. DEWINE. My colleague and I have, I think, the same objectives. My colleague from Maine and I have the same objectives. I think our differences are, frankly, down to what language accomplishes this. I think, also, I have more skepticism and bring to the table maybe more skepticism about how the world works. I am usually the optimist. But on this I am skeptical about the ability of this new position, someone whom we are now throwing into a newly created position, to be able to drive his or her agenda. I am concerned about it. I think it is a concern based on reason. There is a reason to be concerned about it, knowing the bureaucracy and how it works.

I think the Specter language is more clear, it is more precise: Supervise, direct, control operations. That doesn't mean picking planes or worrying about the day-to-day activities. That is not how I interpret it. It is not how I interpret it.

Mr. LEVIN. If the Senator will yield, I don't know any other way you can.

Mr. DEWINE. It is your time.

Mr. LEVIN. If the Senator will yield to respond, and I don't want to interrupt, but that is exactly what the words ''controlling operations'' mean. That is what the word ''operations'' means.

I think the Senator from Ohio is correct in pressing for clear answers to the wording in the bill. There are plenty of places where I have some similar questions which I will be raising by amendment, but I don't think this is one of them. I don't think this is one of the places. Because I think the bill is clear here that when the NID issues collection tasking, that is exactly what the Senator from Ohio wants, is to issue collection tasking, I believe.

But what I believe the Senator from Ohio does not want is to control the day-to-day operations as to how that task will be carried out. Yet that is what the Specter language results in.

Rather than clarifying this issue as between the order or the task, and how you are going to carry it out, it blurs the issue. Because once the Senator from Ohio says it is not his understanding of the Specter language that the operations which will now be assigned to NID include the day-to-day operations, then where is that line drawn? If it is not the day-to-day operations, if you are truly shifting those agencies to the responsibility and control of the NID, of course he is responsible for the day-to-day operations. Where is the line, where is the operations point divided between the NID who controls operations under Specter and the operations not controlled by the NID, under your understanding?

Mr. DEWINE. If I can respond, I understand my colleague's point. It strikes me that we have come a long way in this debate and the evolution of this bill. I think we have gone in the correct direction. I look at where we were 2 months ago or 3 months ago in this debate—it is all for the good. When every one of us speaking on the Senate floor, all four of us who are down here at this moment are basically saying we want the same thing and what we are now debating, I believe, is the language to get there. I think my colleagues, Senator LIEBERMAN, Senator COLLINS, my colleague from Michigan, would agree we are saying basically we want the same thing. I think that is good.

We are going to vote different ways on the Specter amendment, but I think this is progress because there is a consensus that has emerged that we want this head of intelligence in this country to be accountable, to have the control that person lacking them has, so the buck will stop with that person, so when they come in front of our committee we can't hear the excuses. It is going to be a great improvement.

I congratulate my colleagues for the great work they have done. I think this debate we have had here for the last 45 minutes has been a very good one. I think we have clarified some things and we clearly clarified, at least in my mind, the intent of the authors of this bill.

I think we created some interesting legislative history about what the power of this person should be. There should be no doubt in any person's mind in the future, NID or anyone who has to deal with him, what their powers should be in this area. I think that is all for the good.

I thank my colleague and yield the floor.

Mr. LEVIN. I thank my friend from Ohio.

In closing, I do have some questions about certain words in this particular paragraph which I will raise later on the floor, relative particularly to the establishment of requirements, because I think the consumer must establish the requirements and not the NID. I think there is also an issue about analysis, because I think we ought to be promoting greater numbers of analyses, and not getting into group-think. We should be promoting independent, objective analysis and I think this wording probably or unintentionally could concentrate or centralize that in a NID.

I think that is an unintended result, but we can discuss that later. But on this one issue that is raised in this amendment, it seems to me this amendment goes exactly in the direction all of us want, which is we need somebody to make a tasking decision, to have that power, and to do it exactly as our friend from Ohio said. You can't at a critical moment have that confused or diffused or uncertain. If something has to be done quickly, someone has to make a decision, and the person who makes a decision in this bill is clearly the NID on the tasking of the intelligence. That is where the decision, it seems to me, has to reside.

But again, I think the Specter amendment, because it goes into the operational side after the task is issued, goes too far, and rather than clarifying an issue will put the responsibility purportedly on somebody who can't handle that responsibility, who doesn't have the horses to handle that responsibility inside of his agency, unless you recreate the entire Department of Defense almost inside the NID

in order to carry out those day-to-day operations to effectuate the task collection which properly belongs with the NID.

Mr. LIEBERMAN. Madam President, before the Senator from Ohio leaves the floor, I want to thank him. Although we disagree on the Specter amendment, his questions have illuminated the details of the underlying Governmental Affairs Committee proposal in a way that I as one of the sponsors feel shows a balance, which is we are trying to do something the 9/11 Commission says we urgently and desperately need to do, which is to fill the gap where the Commission said there is no one in charge of America's intelligence today—a lot of great assets but no one in charge. It is like an army without a general or a football team without a quarterback.

So we are creating a national intelligence director. We are giving that position, that strength, which the current director of Central Intelligence doesn't have. We are separating that position from the Director of the Central Intelligence Agency. But we are not giving the director line authority over the constituent agencies. He is going to be there to call the plays, if you will, to resolve conflicts, to make sure all the assets of the intelligence community—here we do have totally shared goals—are serving the national interest and all of the customers of the intelligence community and, most importantly, serving the President of the United States who represents the national interest, but not in control with line authority over the constituent agencies.

As has been said, we think that will make, and the 9/11 Commission said it will create, a top-heavy organization. We don't need to do it.

I am quoting Secretary of State Powell's statement which he made to us on September 13 when he testified at a hearing. He said:

The director of central intelligence was there before but the DCI did not have that kind of authority.

I add parenthetically that is the authority we are giving the national intelligence director.

Colin Powell said:

> In this town, it is budget authority that counts. Can you move money? Can you set standards for people? Do you have the access needed to the President? The NID will have all of that. I think this is a far more powerful player, and that will help the State Department.

There is a substantial transformation of what exists now. But it doesn't remove day-to-day control over operations from the individual departments. It is that balance that is part of the strength of our proposal, I submit to my colleagues. There are those on both sides who are unhappy about our balance. Senator SPECTER is stating it much too simplistically and we didn't go far enough to give power to the NID, so his amendment would effectively create a secretary of intelligence with line control over all the constituent parts of the intelligence community.

There will be other amendments from people who feel we have gone too far, particularly with regard to the Department of Defense, because in fact we do change budget control authority from the Department of Defense to the national intelligence director, to strengthen that position for exactly the reason Secretary Powell says, acknowledging that the intelligence director serves the President and the entire Government insofar as Government agencies need good intelligence, including the State Department. And the Secretary effectively said to us, he explicitly said, he is confident that the State Department will get more and better intelligence which it needs to advise the President on the conduct of our foreign policy. It is critical. Obviously, the needs for the Defense Department and warfighters are also critical, but they are not the only ones who need intelligence in our Government. The new director will, I think, better be able to satisfy all of those customers for the best possible intelligence.

I think it has been a helpful debate. I hope our colleagues who are not on the floor are keeping an ear to the debate, or at least their staff is, because it reminds me of some of the debates we had in the Governmental Affairs Committee which ultimately led us to a point where there were many disagreements along the way, with almost 50 amendments filed, where the bill was reported out of committee on a nonpartisan vote, unanimous vote.

I don't have explicit hopes that will happen in the full Senate, but I look forward to as thoughtful an exchange as we have just had, leading to a resounding vote for the kind of transformational reform of our intelligence community that the 9/11 Commission recommends, which we all know is desperately needed as soon as possible to better protect the American people from the clear and present danger of terrorist attacks.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TALENT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is there any time limit on speaking right now?

The PRESIDING OFFICER. There is no time limit.

Mr. STEVENS. There is a vote set for 2:15?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, I come to the Senate to make extensive remarks on this bill. I do so with the full realization that my schedule prevented me from attending the hearings of the committee on which I am a member, chaired by Senator COLLINS and the ranking member, Senator LIEBERMAN. I commend them for their activities through July and August with the hearings they conducted. During that period of time, the Senator from Hawaii and I were in a parliamentary conference with the Chinese National Peoples Congress, and we had other events that prevented us from being in Washington while they conducted the hearings.

I preface this to say I voted for the bill to come out of the committee, but at the time I stated specifically to the managers of the bill that I would have some amendments in the Senate and whether I voted for the final passage of this bill would depend upon the outcome of some of those amendments.

Let me also say in this preface to my comments that as the staff reports were prepared by the 9/11 Commission, and my staff delivered those to me from the Internet and I read those—I also read the report when it first came out—and then, on the increased pressure that came from the members of the former 9/11 Commission to have early consideration of this subject, I reread the report and formed some very fixed opinions about this subject.

I have never seen members of a Commission, which went out of existence upon delivering the report, lobby the Congress so hard. My understanding is they raised a considerable amount of money, rehired some of their staff, and are currently lobbying the Congress. I do hope they have complied with the lobbying laws. In any event, this pressure has been significant and it is compelling the Congress to judgment in a very short period of time, in my judgment.

As I said, I have read and reread the 9/11 Commission Report. Last week, our Appropriations Committee held hearings on the report recommendations. We did that because when I returned to Washington I found there was a series of people who indicated they had not been heard by the Governmental Affairs Committee who wanted to have an opportunity to present testimony to the Congress.

We heard from Dr. Henry Kissinger; from three former military commanders in chief: GEN Joe Ralston, U.S. Air Force, retired, former commander of the U.S. European Command and supreme allied commander of Europe and NATO; ADM Dennis Blair, U.S. Navy, retired, former commander of the U.S. Pacific Command; ADM James Ellis, retired, former commander of the U.S. Strategic Command. Our committee also heard testimony from Dr. John Hamre, president and CEO of the Center for Strategic and International Studies and former Under Secretary of Defense. We heard from Judge Richard Posner of the Court of Appeals for the Seventh Circuit, and Dale Watson, former Executive Assistant Director of Counterterrorism and Counterintelligence for the FBI.

Our committee spent 2 days listening to the testimony on the 9/11 Commission's recommendations. Each witness who appeared was an expert in his field with years of dedicated service to the Nation. After listening to their thoughts and suggestions, I have come to the conclusion we have only begun to scratch the surface for what needs to be considered by the Congress before we finally act on this subject.

Copies of the hearings we held before the Appropriations Committee have been given to every Senator and to all intelligence-related staff of the Senate. They are available to anyone who wishes. They were printed as a public document.

Since the passage of the National Security Act in 1947, at least 19 commissions, committees, and panels have made recommendations aimed at reorganizing our Nation's intelligence community. Those proposals have led to changes in internal agency direction, precedence, or directive, and to new statutes, but none of those reports were adopted in their entirety or in this type of timeframe or context.

During last week's hearings before our committee, Senator INOUYE asked whether it would be wise for Congress to make a decision about restructuring the intelligence community in the next 2 weeks. Judge Posner, who is a very erudite professor of law at the University of Chicago in addition to being a Federal circuit judge—he also recently authored a very thoughtful article on intelligence reform in the New York Times—testified he thought it would be ''unwise and most unfortunate.'' He expressed doubts that the analytical problems could be resolved in that timeframe and expressed concerns that the Presidential campaign and politics should not be the right setting for this reform.

I agree with Judge Posner. However, I have approached this legislation as a committee member with an open mind, and I am hopeful that the Senate will move forward on some reforms during this year.

I do have concerns about current efforts to restructure the Nation's intelligence community. For starters, the witnesses I heard last week revealed serious issues with the underlying document for these efforts. That was the 9/11 Commission Report. The Commission's recommendations do not reflect their own account of what happened on September 11. As Judge Posner said before our committee:

> The first 338 pages of the commission's report are an extremely detailed and thorough narrative of the background to the attacks themselves, and the immediate response.
>
> It is a very fine job. . . . Then after that, the commission goes off on what is really a different tangent in considering organizational change because it is not clear, from reading their narrative, that the problems were organization[al] problems for which organization[al] solutions or reorganization would be indicated. So I think there is a mismatch between this very detailed narrative and a rather more summary discussion of organizational change that really does not match the problems that the report itself had identified.

That is the end of Judge Posner's quote.

Because the Commission's recommendations are somewhat divorced from its own account of what happened on 9/11, the Commission adopts, in my view, a flawed vantage point from which to suggest reforms. For example, one of the concerns Judge Posner expressed in our hearings last week was that the report—and again I quote—

> . . . really is oriented toward preventing not new threats, but a repetition of 9/11. Now, an exact repetition of 9/11 is extremely unlikely because that has already happened. We know about that. What I think we have to worry [more] about [is the threat of] biological terrorism, nuclear terrorism, agricultural terrorism because, you know, destruction of agriculture by biological weapons could be as destructive as biological warfare against people. So we ought to try to think about the disasters that have not happened, but that is very difficult to do, so we tend to think about what has already happened.

That is the end of Judge Posner's comments about that.

As we debate this legislation, one of the things we must keep in mind is there have been substantial changes in our intelligence-gathering methods and operations since 9/11. We personally witnessed those on trips to Afghanistan and Iraq during this past year. The situation we faced in the morning of 9/11 is not the situation we face today, and the threats, although related, are not identical. Efforts to reorganize the intelligence community must take into account the current state of operations and the broad scope of the risks we face. We cannot be mesmerized by just one threat.

As I said, I am not opposed to intelligence reform. But any changes should reflect the current context of intelligence. Since 9/11, many members of the intelligence community have testified before Senate committees, and they have told us they are doing things differently, that today there is a free flow of ideas that did not exist before 9/11. Congress should not take any action that might—intentionally or unintentionally—stifle that progress.

I support many aspects of this legislation. I am in favor of the creation of a national intelligence director who can serve as the President's primary intelligence adviser. I also support the creation of a national counterterrorism center. However, I am very concerned about the way the NID's role is defined in this legislation. I urge Members to read it. Read it. Look at the pages. There are nine and a half pages that describe the powers of this person. It would do well for people to understand what it says, what the real context of this is. This person is going to be a very unique individual. What I fear is, this person is going to assemble underneath the NID a series of staff people who will be telling other people what to do based upon their understanding of what the director of NID intended to do. Quoting from the bill:

> The National Intelligence Director shall—
>
> determine the annual budget for the intelligence and intelligence-related activities of the United States by—
>
> providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities with the National Intelligence program, and to the heads of such agencies and elements, guidance for development [of] the National Intelligence Program budget pertaining to such agencies or elements. . . .

It goes on, all the way through. The national intelligence director is in charge of preparing the annual defense budgets, including those for the Department of Defense related to military intelligence programs, with the concurrence of the Secretary. He would be in charge of ''collection and analysis requirements'' for the entire intelligence community. He is going to have to ''provide advisory tasking on the collection of intelligence to elements of the United States Government having information collection'' activities. He will have the right to go to any Department or agency of the Federal Government and say, ''What are you doing?'' and have access to their information. He will ''manage and oversee the National Counterterrorism Center,'' which, again, I say, I do believe in that type of center, but can he manage that and be a director at the same time?

I urge the Senate to look at the job description of this one person. No person on Earth can do all those things. What he is going to do is assemble a whole series of subordinates who will tell the existing agency heads, many of whom are constitutional officers, Secretaries, confirmed by the Senate, to perform the functions of their Department. But this person is going to have assistants telling those Secretaries what to do and demanding they have access to information those Secretaries have collected through their own processes. Now, I think, if you read this, this is an enormous task for any individual. An NID is needed, but that type of bureaucracy that is set up by this bill is just overwhelming.

He also ensures ''that appropriate officials of the United States Government . . . have access to a variety of intelligence assessments and analytical views,'' protecting ''intelligence sources and methods,'' establishing ''requirements and procedures for the classification of intelligence.''

He is a czar, one person. Now, we know not one person can do all those things. This means to me a new level of bureaucracy, an appointed level, not described in this bill at all. But he is going to have a series of people working for him. I am told there will probably be 800 people in this office of national intelligence director. There is the flaw. There is the flaw, and the President's letter yesterday mentioned it.

This legislation also gives the NID authority to set security, personnel, and informational technology standards all the way across the intelligence

community. In other words, no matter whether you are the FBI, CIA, or DIA, you must follow the standards set by the NID to do your business. Unheard of, just unheard of.

This also includes the establishment and direction over information sharing. This person alone will determine who shares what information. Now, I believe this effort will create more problems than it solves. Judge Posner, again, addressed this in his testimony to our committee last week. He said:

> The commission thinks the reason the bits of information that might have been assembled into a mosaic spelling 9/11 never came together in one place is that no one person was in charge of intelligence.

He means at that time. But he said:

> That is not the reason. The reason, or rather, the reasons are, first, that the volume of information is so vast that even with the continued rapid advances in data processing it cannot be collected, stored, and retrieved and analyzed in a single database. . . .

That is an objective of this bill. Anyone in the industry will tell you it is not possible yet.

> Second, legitimate security concerns limit the degree to which confidential information can safely be shared, especially given the ever-present threat of moles like the infamous Aldrich Ames.

Now, Mr. President, still quoting Judge Posner:

> And third, the different intelligence services and the subunits of each service tend, because information is power, to hoard it. Efforts to centralize the intelligence function are likely to lengthen the time it takes for intelligence and analyses to reach the President, reduce diversity and competition in the gathering and analysis of intelligence data, limit the number of threats given serious consideration and deprive the President of a range of alternative interpretations of ambiguous and incomplete data—and intelligence data will usually be ambiguous and incomplete.

That is, again, the end of Judge Posner's comment.

Giving the NID information-sharing authority may actually prove to be counterproductive. The implications Judge Posner raises need full debate and discussion. I hope we will have some of that today. At the very least, we cannot assume that Congress has rectified this problem by simply vesting information-sharing authority in one individual, only one individual, because that is the process for information sharing.

What if, in a later administration, the NID wants more centralized control? What if that person shares the viewpoint of the prior administration that there should be walls between these agencies? He will determine when they learn what is going on between one agency and another. That is the implication of what we are hearing here. We took down the walls with the PATRIOT Act. We said no more walls. Yet here is one person who determines the total rules for sharing. And probably under the current atmosphere, the return to the walls is impossible, but this authority does not prevent walls.

There is no limit on the NID's concept of sharing. That person alone will determine what sharing is between agencies and who gets the information and who has access to it.

I am also concerned about the language in this legislation concerning the structure of the office of NID. I mentioned that before. We don't need to create a new bureaucracy here, and it seems to me this legislation risks doing just that. We need to delete or significantly revise the parts of this bill that delve into unnecessary or excessive detail about the organization of the office of NID. Again, I call the attention of Senators to the bill itself. It has greater detail concerning specific authority for one individual than I have ever seen.

The Statement of Administration Policy, dated September 28, specifically addressed this issue of creating ''a cumbersome new bureaucracy'' or ''legislated mandated bureaucracy will hinder, not help, in the effort to strengthen U.S. intelligence capabilities and to preserve our constitutional rights.''

Continuing from the administration's letter:

> The Administration urges the Senate to delete or significantly revise these problematic provisions.

We will have amendments to do just that at a later time.

I believe we must take time to carefully consider the people in the field now and how this legislation will impact them. I recently had occasion to meet with the chiefs of station of the CIA from around the world. I was most impressed with what they said about how long it takes to establish a position as a chief of station and how long it takes to develop assets who have the willingness and the ability to go into a neighboring country or in the same country they are in and try to obtain the information we need about developments that might threaten our future.

Currently there are 175,000 persons working in the intelligence community. One hundred fifty thousand of them are military personnel today. They do an incredible job with much personal sacrifice, many under difficult circumstances and far away from their families for years. The creation of the NID will have serious consequences for them and the Department of Defense intelligence personnel. The consequences for the Department of Defense intelligence personnel must be carefully considered as we adopt these reforms.

I don't believe you can alter one piece of this puzzle without having an impact somewhere else. I am concerned not only about the impact the legislation will have in terms of unintended consequences of the big picture but also the impact it will have on our career intelligence operatives who are working out in the field today.

I hope to go on to that later. We had a gap in our development of human intelligence, and it was a serious gap for a series of years. It takes more than 5 years to develop one of these people. Now we are operating with a group of human intelligence experts which is very limited.

This legislation says the NID will ''establish intelligence collection and analysis requirements for the intelligence community.'' This arrangement will centralize the prioritization and control of intelligence and, I believe, could detrimentally affect military leaders outside Washington, DC.

The NID would inevitably focus on the current crisis in Washington—I assume, this doesn't say anywhere, that NID will be here, somewhere near the President—possibly shortchanging the long-term collection and analysis needed for intelligence preparation for battlefields in distant regions.

Currently there is a diversity within intelligence. I do believe in a NID, but I believe in more of a coordinator than a commander. This creates a new commander in chief of intelligence. The Constitution didn't create one. I do believe this is a very difficult proposition the way it is described, what the powers and authorities will be.

When combat occurs, intelligence could swing into full force to support the troops, but by then it would be too late. We need a consistent peacetime intelligence effort to ensure that we can either avoid conflict or give U.S. forces high-quality information when they must engage an enemy.

I am also concerned about the nature of the NID position. Right now we have one agency that deals with domestic threats and another that deals with foreign threats. There are reasons for this division.

Domestic and international threats are distinct and require different intelligence tactics and strategies. The NID collapses international and domestic intelligence concerns into one position, one control, one definition authority, and one access authority. I do believe that this is the kind of situation Judge Posner warned us about last week where we would have an intelligence community that is too rough on our citizens or too gentle with foreign threats because it needs to adhere to uniform policies across the domestic and international context. If that is not the intent, the bill should so state.

There is a reason for different approaches to foreign threats than those that are internal within our constitutional authorities. I believe Judge Posner's warning ought to be listened to by the Senate. We do not need an intelligence community that is too rough on our own citizens and too gentle with foreign threats.

I believe the NID position should reflect what Dale Watson, another witness before our committee, recommended last week. He has a long service in the FBI intelligence division. This was his judgment:

> This position must be a job and not a position. The individual who has this responsibility of being the NID needs to work within the NID and within the intelligence community. The NID should not be a public relations job. The NID should not be on the

speaking circuit or conducting liaison. The NID should be a central-focused individual that looks at where [we] are across the board in all areas. . . . I think the NID ought to be a term appointment. I think the NID has to have the responsibility and be able to do the task.

What we are really saying is, Congress should not rush to implement the recommendations put forth in the 9/11 Commission report. For my part, I hope to spend more time in the Chamber listening to my colleagues and exchanging views on this legislation.

As of now I am inclined to support a course that creates a national intelligence director and a national counterterrorism center, gives them 6 months to get up and running, and then invites them to come and tell those of us in Congress who must make the final decision what additional authorities and changes they actually need. This director ought to become familiar with what we have now before he tries to fix it.

That is one of the things we learned as young men, I thought. If the watch is running and it works, you ought not to try to fix it until you know that there might be some way you can improve it.

This situation is just the opposite. I do think we ought to look forward in this week to a debate that is one that will be productive so that the changes in the administration's letter we received yesterday are not only listened to but they are accommodated to the maximum extent possible.

I have a series of questions that I want to read into the RECORD. These are questions I intend to ask the managers of these bills as we go through this process. It is a long list of questions, I will say. The first is in regard to military personnel.

Based on the fact there is no differentiation between civilian and military personnel in your bill, could the NID have the power to hold military personnel for more than their stated rotations, more than their career path that they are on? For example, could they hold a military person at the National Counterterrorism Center longer than is detailed from the Department of Defense? If they could, what is the effect on their ability for promotion in the future? If needed for a military mission, how would the Secretary of Defense or one of the service chiefs be able to have that military individual returned to a nonintelligence program or position?

Is it true that once in the NID, the NID has control over the individual person's future, particularly when, I remind the Senate, again, 80 percent of the people we are talking about are Department of Defense people, most of whom have career programs, are on a career path, and part of that path involves being an intelligence official for a period of time?

Also, based on the educational requirements designated for personnel in the national intelligence program by the national intelligence director, how would this be reconciled for those military personnel who must complete military education courses for the advancement of their careers?

Periodically, particularly the officers, and some noncommissioned officers, must complete additional military education courses in order to move upward, have upward mobility in their particular service.

Also, how much control would the DOD have over military personnel assigned to the NID? Would the NID control their assignments and their careers? How would the NID ensure that they have the requisite training and assignments to remain competitive for promotion within their parent military service? What role does the Secretary of Defense have in meeting the statutory responsibilities in title 10 and title 5 for the Armed Forces personnel?

I have heard comments that this new national intelligence director organization could, as I said, be in excess of 800 people. If that is true, it would seem that this legislation will create a new bureaucracy to deal with intelligence.

So I asked the managers directly, how large will the national intelligence director organization be? Does the NID have unlimited ability to hire people? Where would the personnel for such a structure come from? There is already a shortage of intelligence people in the intelligence community. Where are these people going to come from? Is he going to take them from the CIA or the DIA? And if he does, do they lose their career path? Is everybody subject to the control of the NID? Can he tell them you must come? I thought intelligence was a volunteer organization. I think it must be if we are to be successful.

Why does this legislation single out the FBI for the NID's ability to fix the rate of pay? This bill gives only the NID the power to fix the rate of pay for the FBI and the intelligence section. Why doesn't it extend this to all personnel involved if he is to be so powerful? It seems to be a very strange section.

The number of qualified personnel in the intelligence field is fairly limited. Will the creation of the NID and this organization dilute the numbers? How long would it take to build and to grow the additional numbers if they are required in order to create and fulfill the obligations of the director under this reorganization?

I have some questions about the Department of Defense directly. If the national intelligence assets are transferred to a new national intelligence director, how do we ensure to our military commanders that national assets will be reliably available to them before a conflict? They have control under this bill when the conflict comes, when they have the right to obtain their own intelligence. How will the Department of Defense relate to its defense support agencies, such as the NRO, National Reconnaissance Agency, or NSA, or the National Geo spatial-Intelligence Agency, NGA, if they are effectively under the national intelligence agency? Will they still be combat support agencies, subject to the military leaders, as they are now—the Joint Chiefs of Staff and the Secretary of Defense? Where does this fit in? Will the NID have the power to convert current military positions into civilian positions? Where does he recruit from?

Within this bill, I would like to have an answer as to whether you have altered the definition of ''joint military intelligence programs.'' I do not see such a definition, but it is a very important segment of intelligence.

As to the budget, am I correct in understanding the NID controls the budget of the NSA, NGA, NRO, and that the NID recommends nominees to be directors of these entities, with the concurrence of the Secretary of Defense? What happens to the current directors? Is this some time off in the future? Can he immediately clear the deck and put new people in charge of the agencies? These agencies, along with DIA, are both national and combat support agencies. How will the proposed bill ensure these agencies remain responsive to the military forces they support if their funding and personnel are controlled by another department?

How does the National Security Advisory and Office of Management and Budget fit into the overall role of coordination or budget coordination envisioned by this legislation?

Particularly, how would the national intelligence director, with strong budgetary and personnel authority and the ability to control the dollars, 85 percent of which are now controlled by the Department of Defense, still maintain a relationship with the DOD? Does it control the whole 85 percent or just the part that is related to the defense agencies specifically mentioned? Currently, I assume the committee knows that the payroll for all of those people comes through the Department of Defense. This assumes, I take it, that the payroll will now come through the budget of the NID. Which ones are you going to pay? Who will make the separation, the Secretary of Defense or NID, as to which ones NID pays and which ones the Department of Defense pays? That is going to be a headache, in my opinion.

The bill provides the national director, in terms of an organization, with the power to reach into other departments to manage personnel, budget, and acquisition programs. Is this on a day-by-day basis, or on the basis of a plan or the formation of a divide-and-command authority? It seems to be that. It seems to be an invitation for turmoil that will cause operational problems as soon as it is created. He is supposed to reach in and tell them I will manage your personnel, your budget, and your acquisitions? A series of things is on the books that envisions particular acquisitions by various agencies over the period ahead. Some of those laws, apparently, will have to

be changed if this person's authority is to be effective, because it will conflict with existing laws, if they are not changed.

How do the benefits of centralization of the intelligence function impact the benefits of diversity and competition in the production of useful intelligence? Does the committee believe that diversity in competition is not needed and that is intended by this bill?

Is it possible to link the national intelligence director to the National Security Council and place it under the control of the national security adviser? Is that possible? Today, the President is in control of those entities within the executive branch, and they are personally responsible to him. That is what the letter we received yesterday says. I hope we think twice about the lines of authority and what are the prerogatives of the President as Commander in Chief and as President of the United States under the Constitution.

Currently, national intelligence priorities are established by the President and the National Security Council. Does a national intelligence director with such powers weaken the NSC process and the roles of the National Security Adviser and the Secretary of State? Will they still have the same role, notwithstanding this national intelligence director is going to have the authority to tell them and make the decisions on what intelligence they need in carrying out their authorities as constitutional advisers to the President?

Could some of the objectives sought by the reorganization be achieved by strengthening the existing institutions? I am not sure that has been considered adequately. That seems to be the compelling rush of the 9/11 Commission—throw everything out and set up something new. There is not even a period for transition in this process. This cannot happen overnight. The reorganization proposed by this bill would take at least a year. During that process, what happens to careers and to people's morale? Why can we not build on what we have, rather than creating something so new that has the extreme power to invade every agency that even touches any piece of intelligence?

Does this legislation create a system in which intelligence is reported to two masters? For example, would the members of the intelligence community be under the control of the national intelligence director and their own agency bosses? I assume that is the case. How does it work on a day-to-day basis if they are not? I assume persons employed by one agency are responsible to the person who hired them. This bill now envisions, I take it, that the NID has the right to hire and fire in any of the agencies involved.

Will the system envisioned by this legislation create conflicts in collection and analysis tasking? Currently, there is a working relationship between these agencies as to who is going to pursue one subject or another, as they task the analysis of information coming in on a daily basis. I don't see why the system creates other conflicts in that process.

The 9/11 Commission report highlighted that there was a lack of information sharing within the intelligence community. But evidence points out this was just as serious within agencies as it was across agencies. How can problems of sharing within agencies be solved by layering another set of controls over all of the agencies?

We ought to think about what happens to the agencies that exist now and how they should transition into this national intelligence director realm, and not assume it is automatically created as soon as the bill is passed.

Would the national intelligence director's role in crafting intelligence policy supplant that of other Cabinet Secretaries? Under this bill, would the Cabinet Secretaries lose their own organic capability to do intelligence analysis? Are we telling the Secretary of State he cannot hire somebody to do intelligence that he thinks he needs? If so, would this undercut Cabinet Secretaries who are constitutional officers of the Government charged with managing the instruments of foreign and security policy for the country?

I do not think we should proceed to create a national intelligence director that has the power to tell those Cabinet Secretaries what they can do in terms of gathering intelligence and analysis.

How would these same Cabinet Secretaries fulfill the constitutional authority vested in them by Congress unless they have the power to make an independent judgment about what is the proper conclusion from the intelligence available to them?

Could the national intelligence director function without having the analytical branch of the CIA placed under his or her direction? I say that again, the only analytical branch we really have is the CIA, and this bill seems to say that the NID gets that analytical branch of the CIA. If it does not, will we have duplicate analytical branches? What is the role of CIA under this concept, as far as analysis is concerned?

If the essential relationship between analysts and operators is weakened, does the operational branch become rudderless and the analytical branch too academic? Would the CIA become an organization for conducting clandestine activities only?

I do not think this bill tells us what we expect from CIA in the future. It says what we expect the NID to do, but it really does not reaffirm the role of any existing agencies that I have defined.

Creating an intelligence czar with domestic surveillance authority that is not under the Attorney General, and measures that separate domestic intelligence from law enforcement, go against all the lessons learned by democratic governments the hard way. What are the concerns and dangers of merging domestic and foreign counterterrorism operations under one organization?

Again, I refer to extensive comments Judge Posner made to us before our committee. How will competing views on intelligence be brought to the President's attention? Indeed, how will competing views merge at all in a structure that is so centralized and under the control of the NID?

Much of the bill which stems from the recommendations of the 9/11 Commission report seem to be directed only to the threat of Islamic terrorism, which I agree is a tremendous threat. But does this legislation enable us to better deal with the growing worldwide threats of proliferation of weapons of mass destruction and other very serious problems in terms of intelligence gathering and analysis?

How much will congressional oversight be reduced if this bill becomes law? It appears to point toward one committee but has total budget authority, total reorganization authority dealing with one person who has total authority in the intelligence community. It eliminates diversity. It eliminates even the opportunity for a separate think. It is going to be a two-group thinks, and if they work together, where is the diversity in this community? Where do we get accurate analyses if we can have only the one that is made by the NID?

We created the Department of Homeland Security in an election cycle. I think the experts are telling us now that the transition has not been successful, and the current organization falls short of its goals, as far as homeland security. But isn't that the same environment we face right now, Mr. President? Can we avoid some of the same mistakes we made and have experienced through the Department of Homeland Security and its legislation and development of this legislation?

Would the National Counterterrorism Center be involved in operations? Why would there be a director of operations listed in this organization unless it is involved in operations? If it is, doesn't that complicate planning for operations that currently go on within the Department of Defense, CIA, FBI, and other agencies? Are they all subject to the control of the NID, even in terms of operations?

I do not think that is the intent, but again I do not think it is clear. It is my understanding that the inspector general would have authority to conduct investigations of the relationships among elements of the intelligence community within the national intelligence program and the authority to investigate relationships among elements of the intelligence community within the national intelligence program and other elements of the intelligence community.

If a close reading of this bill grants authorities to the inspector general of this community far greater than other

inspectors general—I was asked that question once and was told it is just the same as the others; that it was just the same. I challenge that now because I do not think other inspectors general have the authority to investigate relationships between the communities, nor do I think the inspector general should have the authority to audit interagency processes in addition to the programs and operations within the national intelligence authority. It presumes we can find an inspector general and his staff that will have the right to complete access of all the intelligence to which the national intelligence director has access. I seriously question that in connection with intelligence.

Does the authority to investigate interagency processes create a tension between the inspector general of the NID and inspectors general of other agencies? I do not see anything that says the Department of Defense inspector general or all of the inspectors general in the intelligence community—and they all have them—is subordinate to all of them, yet this person has authority to investigate interagency processes that are really relationships between agencies, not how the agencies function, not whether something is going on, but whether they are getting along. Who is getting along with whom? What are you going to do with existing IGs? What is their role under this bill?

I do not think it is spelled out at all. I think the bill authorizing the inspector general of the NID to provide policy direction to improve the effectiveness of interagency process, without consulting the Secretaries of Cabinet departments, without consulting agency heads, and without consulting the inspectors general in the agencies themselves, has not been thought through at all.

I do believe the authority to provide policy guidance politicizes the position of inspector general to NID and it would endanger the IG's independence, which I believe is critical to conducting fair and unbiased audits in investigations. I also think there ought to be some statement of the relationship we expect to exist between the NID and the inspector general and the inspectors general of individual agencies that are subordinate to the NID.

Those are just a few of the questions that came to my mind as I read through this bill and report and the comments that have been made. I do hope we have time to explore some of those questions because I think they need to be answered. I do think we need to take care of what the relationship is between this NID and particularly the Department of Defense.

I hope we can work together and find a way to answer the requests made by the administration that were stated yesterday. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska yields the floor. Who seeks recognition? The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3766

(Purpose: To ensure the availability of electromagnetic spectrum for public safety entities)

Mr. MCCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3766.

Mr. MCCAIN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. Mr. President, I ask unanimous consent that my amendment be set aside to allow Senator LAUTENBERG to propose an amendment and to speak for no longer than 10 minutes, at which time I will return to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator yields the floor. The Senator from New Jersey is recognized.

AMENDMENT NO. 3767

Mr. LAUTENBERG. Mr. President, I thank my colleague from Arizona for his patience. I send my amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3767.

Mr. LAUTENBERG. 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 specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each)

On page 10, line 2, insert ''(1)'' after ''DIRECTOR.—''.

On page 10, line 5, insert '', for a term of up to 5 years'' after ''Senate''.

On page 10, after line 5, insert the following:

(2) The National Intelligence Director may be reappointed by the President for additional terms of up to 5 years each, by and with the consent of the Senate.

Mr. LAUTENBERG. Mr. President, first, I commend the chairman of the committee and our esteemed ranking member and say I am pleased to see that we have a chance to wrap up discussion on this reform attempt in the time we are presently allowing.

I offer an amendment to establish a 5-year term for the national intelligence director. Our colleague from Pennsylvania has put forward an amendment to extend the term for the national intelligence director, to put in place a term that is 10 years in length, and I salute the Senator's attempt to try to assure objectivity for the new intelligence chief. The Senator from Pennsylvania and I share the same goal and that is to do all we can to make sure the national intelligence director is as independent and nonpartisan as possible.

My specific proposal differs from the approach used by the Senator from Pennsylvania. Mine would establish a 5-year term, not a 10-year term, for the national intelligence director. Under my amendment, if the President wants to reappoint that person, he could, as long as he sends the nomination to the Senate and we confirm him or her.

Under Senator SPECTER's amendment, the director's term would be limited to a single 10-year term. I think a formula of 5-year terms that could be renewed is more practical. If we are serious about objective intelligence, then we have to provide a national intelligence director with as much independence as we can, that allows him to tell the President things the President may not generally want to hear. The NID should be able to provide information and analysis to the President without necessarily worrying about job security.

During one of our hearings in the Governmental Affairs Committee on intelligence reform earlier this month, I asked interim CIA Director John McLaughlin what he thought of a limited term for the national intelligence director. His response was that it may be yet another way to ensure the objectivity and nonpolitical character of whoever holds that office.

Interim Director McLaughlin is on target. A term for the national intelligence director will bolster objectivity and help keep politics out of our intelligence data.

Some of my colleagues have voiced concern that they want to make sure the director is someone the President trusts, and I wholeheartedly support that. I agree it is critical that the individual and the President have a relationship built on trust. I believe my amendment bolsters that trust. With an independent, objective national intelligence director, the President can trust that the data he gets is objective.

When it comes to intelligence data, a President surely does not want a simple yes-man. The President needs independent, clean, quality analysis.

Unlike the amendment that has been proposed, my amendment does not restrict the director to only one term. If the President wants to renominate the same person to serve in the post again, then he may do so, and the Senate will then decide whether to confirm the person for another term.

I want to be clear that while the amendment provides a degree of independence to the NID, it is not absolute. Under my amendment, the President could certainly dismiss the NID if he

did not have further confidence in his ability to perform. In fact, all it takes for the President to remove the director is the will to do so. So I believe my amendment will help improve the quality of nominees for the position of national intelligence director. With a 5-year term in place, there will be an expectation that the individual serve both Democrats and Republicans. Given what I hope will be a nonpartisan mandate, we will see much more objective and nonpartisan nominees.

I urge my colleagues to support this amendment, and I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Maine.

Ms. COLLINS. Mr. President, I know the Senator from Arizona is in the Chamber to offer his amendment so I will speak only very briefly. Senator LAUTENBERG's amendment is an improvement over the amendment offered by the Senator from Pennsylvania because it is a shorter term and it does allow the President to remove the NID without specifying a cause, but I still find it problematic.

We are talking about the individual who is going to be the principal adviser to the President. The witnesses were virtually unanimous in advising us that that individual has to have the trust and confidence of the President and that it would be a mistake to set a term.

I argue further against this amendment in the context of the Specter amendment. In light of the fact that the Senator from Arizona is waiting, I will not repeat those arguments at this time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I believe under the previous unanimous consent agreement that Senator LAUTENBERG's amendment will be set aside and we will return to the consideration of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is correct.

Mr. MCCAIN. I also understand that at 2:15 there will be votes as previously ordered.

The PRESIDING OFFICER. Under the previous order, the vote will occur at 2:15 in relation to the Specter amendment No. 3761.

AMENDMENT NO. 3766

Mr. MCCAIN. Mr. President, I would like to use the time between now and the time the vote is ordered to briefly talk about the amendment, but before I do I will say I understand there is controversy associated with this amendment. I do not intend, nor do I believe, that we should hold up the progress of this legislation and I would be more than willing to agree to a time agreement immediately upon completion of the pending votes to give the opponents of this amendment time to consider that.

I would also point out to both proponents and opponents of this amendment this issue is very well known. There may be some Members who are not that familiar with this amendment, but it goes all the way back to 1997 when we had hearings before the Commerce Committee on May 15, 1997, where following the Oklahoma bombing there was, in the view of the witnesses, an urgent requirement to get spectrum to the public safety community as quickly as possible. That was 7 years ago. The same arguments are being used today as were used 7 years ago after the Oklahoma tragedy. So I believe this amendment addresses, as Senator LIEBERMAN and I had committed to do to the families and to the members of the 9/11 Commission, the fact that we would act one way or another on all 41 of their recommendations.

This addresses the following recommendation made by the 9/11 Commission:

> Recommendation: Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes. Furthermore, high-risk urban areas such as New York City and Washington, D.C., should establish signal corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress.

What we are talking about is not only addressing the expedited aspect of their recommendation but also increased assignment. That is why, in this legislation, all of those who are presently using analog spectrum would be required by a date certain, December 31, 2008, without exception, without loophole, to move off of the analog to digital spectrum.

To take care of those who are still using over-the-air broadcasting, $1 billion would be set aside from the auction of this spectrum in order to provide the provision of set top boxes for those Americans who are still using over-the-air television as their primary way of receiving television signals. This is a small amount compared to the immense value of the spectrum itself.

This amendment is supported by the 9/11 Commission. I have a letter from them and statement in support of it.

It says:

> We write in support of your amendment to S. 2845 regarding public safety spectrum. Your amendment provides for the expedited and potentially increased assignment of spectrum for public safety purposes. By creating a funding mechanism to aid first responders in the purchase of new equipment, it also recognizes that spectrum alone is insufficient to address the deficiencies in public safety interoperability. In this way, your amendment squarely addresses the needs of public safety cited in the 9/11 Commission report.
>
> We urge your colleagues to support this amendment, because it takes significant steps to addressing the urgent needs of police, fire, emergency medical, and other public safety agencies. By establishing a firm date of December 31, 2007, for the return of spectrum long promised to public safety, your amendment provides much-needed certainty with respect to access to this spectrum. And by establishing a firm date of December 31, 2008, for completion of the digital television transition nationwide, your amendment creates an essential funding mechanism for the purchase of public safety equipment using proceeds from the auction of the broadcast analog spectrum. This latter deadline also ensures that the return of broadcast spectrum for public safety occurs with minimal risk of litigation, minimal impact on consumers, and with maximum flexibility of the Congress to allocate additional spectrum to public safety if it concludes such an allocation is necessary.
>
> Finally, we urge the Senate to reject efforts to weaken your amendment by adding loopholes purporting to offer ''flexibility'' to the assignment of spectrum to public safety entities. The need for this spectrum is too great; the stakes are too large; and the time is too pressing to succumb to efforts to delay these critical measures for first responders everywhere.

I will talk about the successful efforts orchestrated by the National Association of Broadcasters to delay indefinitely the transition from analog to traditional spectrum. Now that my friend from Montana is in the Chamber, I will quote from a speech he made in 1997, 7 years ago, which basically lays out the same concerns he and the National Association of Broadcasters have today.

It is time we acted. It's time we gave these people the spectrum they deserve. We can do that, along with providing those who are now and will only receive over-the-air television a set top box, which will allow them to receive digital television signals.

Mr. President, I think we are close to 2:15.

The PRESIDING OFFICER. The Senator has half a minute remaining.

Mr. MCCAIN. I understand, as I said before, that there is controversy associated with this. I will be more than happy to agree to a time agreement, a very reasonable time agreement to debate this issue and vote on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that there be 2 minutes equally divided between the two votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. There will be 2 minutes, equally divided.

Mr. DOMENICI. Between the votes. Not on the first amendment.

Ms. COLLINS. Prior to the second vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3761

Ms. COLLINS. Mr. President, under the previous order we are now going to proceed to a vote on Senator SPECTER's amendment, No. 3761. That is the amendment that would set the 10-year term for the national intelligence director. I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—93

| | | |
|---|---|---|
| Alexander | Dodd | Lincoln |
| Allard | Dole | Lott |
| Allen | Domenici | Lugar |
| Baucus | Dorgan | McCain |
| Bayh | Durbin | McConnell |
| Bennett | Ensign | Mikulski |
| Biden | Enzi | Miller |
| Bingaman | Feingold | Murkowski |
| Bond | Fitzgerald | Murray |
| Boxer | Frist | Nelson (FL) |
| Breaux | Graham (FL) | Nelson (NE) |
| Brownback | Graham (SC) | Nickles |
| Bunning | Grassley | Pryor |
| Burns | Gregg | Reed |
| Campbell | Hagel | Reid |
| Cantwell | Harkin | Roberts |
| Carper | Hatch | Rockefeller |
| Chafee | Hollings | Santorum |
| Chambliss | Hutchison | Sarbanes |
| Clinton | Inhofe | Schumer |
| Cochran | Inouye | Sessions |
| Coleman | Jeffords | Shelby |
| Collins | Johnson | Smith |
| Conrad | Kennedy | Snowe |
| Cornyn | Kohl | Stevens |
| Corzine | Kyl | Sununu |
| Craig | Landrieu | Talent |
| Crapo | Lautenberg | Thomas |
| Daschle | Leahy | Voinovich |
| Dayton | Levin | Warner |
| DeWine | Lieberman | Wyden |

NAYS—4

| | |
|---|---|
| Byrd | Specter |
| Feinstein | Stabenow |

NOT VOTING—3

| | | |
|---|---|---|
| Akaka | Edwards | Kerry |

The motion was agreed to.

Mr. BOND. 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.

AMENDMENT NO. 3706

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a vote in relation to Specter amendment No. 3706. There will be 2 minutes of debate equally divided prior to the vote.

Who seeks time?

The Senator from Maine.

Ms. COLLINS. Mr. President, I would like to split the 1 minute on the opponents' side, 30 seconds for myself and 30 seconds for the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I ask the Senator from Pennsylvania, do you want to go first?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment gives the national intelligence director authority to supervise, direct the kind of managerial authority which is indispensable if the national intelligence director is to be effective.

Of those of us who have dealt with the Central Intelligence Agency, Senator ROBERTS, the current chair of the committee, is forcefully in favor of this amendment, as is Senator SHELBY, former chairman of the committee, as am I. Very forceful arguments were made today by members of the committee—Senator HATCH, Senator BOND, Senator DEWINE.

But if we are really to bring the intelligence community under management, if we are really to have the kind of coordination, to have all of the information in one locale, where 9/11 could have been prevented, and to have accountability, it is indispensable to do more than give budget authority, which is all the committee bill does, but to give the national intelligence director the authority to supervise, direct real management authority to get the job done.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Maine.

Ms. COLLINS. Mr. President, in deciding to keep the NSA and the NGA within the Department of Defense, we were mindful of the fact that these agencies are combat support agencies. We do not want to sever the link between these agencies and the Secretary of Defense. We have already given the NID strong power in terms of budget, in terms of appointing the heads of these agencies, with concurrence from the Secretary of Defense. I urge opposition to the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I also urge opposition to the Specter amendment. The fact is, our committee has found a balance. We have created someone in charge of the intelligence community who is not there now, giving that person the authority Senator COLLINS has referred to, but leaving line control over the agencies of the intelligence community, including the Department of Defense, within the Department of Defense and those existing agencies.

The fact is, this amendment goes too far and goes too far politically because if this amendment should pass, this bill is not going to go anywhere in the House, and we will end up leaving ourselves vulnerable.

The PRESIDING OFFICER. The time has expired.

The Senator from Maine.

Ms. COLLINS. I move to table the amendment.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—78

| | | |
|---|---|---|
| Allard | Dorgan | Lieberman |
| Allen | Durbin | Lincoln |
| Baucus | Ensign | Lugar |
| Biden | Enzi | McCain |
| Bingaman | Feingold | McConnell |
| Boxer | Feinstein | Mikulski |
| Breaux | Fitzgerald | Miller |
| Bunning | Frist | Murray |
| Burns | Graham (FL) | Nelson (FL) |
| Byrd | Graham (SC) | Nelson (NE) |
| Campbell | Grassley | Nickles |
| Cantwell | Gregg | Pryor |
| Carper | Hagel | Reed |
| Chafee | Hollings | Reid |
| Chambliss | Hutchison | Rockefeller |
| Clinton | Inhofe | Sarbanes |
| Cochran | Inouye | Schumer |
| Coleman | Jeffords | Sessions |
| Collins | Johnson | Smith |
| Cornyn | Kennedy | Stabenow |
| Corzine | Kohl | Stevens |
| Daschle | Kyl | Sununu |
| Dayton | Landrieu | Talent |
| Dodd | Lautenberg | Thomas |
| Dole | Leahy | Voinovich |
| Domenici | Levin | Warner |

NAYS—19

| | | |
|---|---|---|
| Alexander | Crapo | Santorum |
| Bayh | DeWine | Shelby |
| Bennett | Harkin | Snowe |
| Bond | Hatch | Specter |
| Brownback | Lott | Wyden |
| Conrad | Murkowski | |
| Craig | Roberts | |

NOT VOTING—3

| | | |
|---|---|---|
| Akaka | Edwards | Kerry |

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa, Mr. HARKIN, will be recognized for 15 minutes.

Mr. HARKIN. Mr. President, how much time does the Senator from Iowa have?

The PRESIDING OFFICER. The Senator will be recognized for 15 minutes under the previous order.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IRAQ AND AL-QAIDA

Mr. HARKIN. Mr. President, there is no longer any doubt about President Bush's reelection strategy. It is the same strategy that was used in the election 2 years ago: They invoke the images of the 9/11 attacks and warn that new terrorist attacks are imminent. They stoke Americans' fears and anxieties. And, of course, they accuse their opponents of being weak on terrorism, not willing to defend America.

The events of 9/11 were traumatic, and we all understand Americans' fear

of a new terrorist attack. But it is despicable to politicize this fear. It is despicable to exploit people's anxieties for political advantage. But this administration has done this again and again.

This is exactly what Vice President DICK CHENEY was up to when he warned that if JOHN KERRY is elected President, then ''the danger is that we'll get hit again, that we'll be hit in a way that will be devastating.''

You have to appreciate the pure Orwellian beauty of that statement. It was on President Bush's watch that we suffered the September 11 attack, a real attack, not a hypothetical one, and that attack happened despite multiple warnings to Mr. Bush from the CIA that al-Qaida was planning to attack America. Yet now his attack dog Vice President has the gall to warn that if JOHN KERRY is elected President, the terrorists will hit us with a ''devastating attack.''

As I said, this is the administration's reelection strategy: Fear and smear; politicize the terrorist threat; exploit people's fears and anxieties for political advantage.

Late last week, President Bush and his allies escalated this strategy to a new level. They are now saying, in effect, that Senator KERRY is giving aid and comfort to the terrorists, and that as Republican Representative TOM COLE crudely put it:

> If George Bush loses the election, Osama bin Laden wins the election.

Last Tuesday, the senior Senator from Utah, and a good friend of mine, Senator HATCH, said that terrorists ''are going to throw everything they can between now and the election to try and elect KERRY.''

Last Monday, Deputy Secretary of State Richard Armitage said terrorists in Iraq ''are trying to influence the election against President Bush.''

Last Thursday, President Bush said Senator KERRY's statements on Iraq ''can embolden the enemy.''

And Vice President CHENEY called Senator KERRY ''destructive'' to the war on terrorism.

This morning our colleague from Arizona, Senator KYL, criticized an earlier floor statement by Senator KENNEDY. Senator KYL said that Senator KENNEDY's criticisms of the President's policy in Iraq were ''giving confidence to the enemy.'' That was said just this morning on the floor of the Senate.

This is disturbing. Since when is an entirely legitimate and justified criticism of the President's policy in Iraq ''giving confidence to the enemy.'' This is an outrageous accusation. It has no place on the Senate floor for legitimate debate.

I remind the Senator from Arizona of the wise words of President Dwight Eisenhower who said that criticism and dissent are the bedrock of democracy. This is what President Eisenhower said in 1954 at Columbia University:

> Here in America, we are descended in blood and in spirit from revolutionists and rebels—men and women who dared to dissent from accepted doctrine. As their heirs, we may never confuse honest dissent with disloyal subversion.

That was President Dwight Eisenhower.

So we will not be silenced by accusations of disloyalty or accusations that we are helping the enemy or giving confidence to the enemy. Is all we are supposed to do hush up and allow Mr. Bush's reckless policies to lead us deeper and deeper into the quagmire?

These gentlemen claim to have such excellent access to the terrorists' thoughts. It would be nice if they would turn that knowledge into an effective policy against the terrorists. Instead, at key junctures, this administration has made disastrously wrong choices and repeatedly these decisions have played into the terrorists' hands. Look at the record.

It is a fact that the September 11 attacks happened despite repeated warnings to the President from the CIA that al-Qaida was planning to attack America. Those warnings included an August 8, 2001, President's daily briefing which he received when he was on vacation in Crawford, TX, titled ''Bin Laden Determined to Strike in U.S.'' That is not a subhead or a sentence in the memo; that is the title of the memo: ''Bin Laden Determined to Strike in U.S.''

Let's look at the rest of the record.

President Bush botched the single best opportunity to capture bin Laden when we had him cornered in Torah Borah in Afghanistan, and yet the President removed intelligence personnel and predator aircraft from Afghanistan to put them in Iraq.

It was President Bush who 3 years ago pledged to smoke bin Laden out of his cave but has utterly failed to do so. Instead, by successfully defying the President, because we have been so bogged down in the quagmire of Iraq, bin Laden has become a folk hero across much of the Muslim world. He has attracted not only thousands of new recruits but dozens of imitators, new bin Ladens, forming their own terrorist organizations to attack America and Americans.

It was President Bush who diverted, as I said, our military and intelligence resources from the hunt of bin Laden in order to attack Iraq.

It was President Bush whose taunt of ''bring it on'' did indeed bring it on—a nationwide insurgency in Iraq, an urban guerrilla that has trapped our Armed Forces, as I said, in a quagmire.

It was President Bush whose unilateral approach on Iraq served to alienate many of our oldest allies and to turn world opinion against the United States.

It was President Bush whose invasion and occupation of the second largest Arab country has outraged much of the Muslim world and has been a recruiting bonanza for terrorism. Indeed, George W. Bush's policies—reckless and wrong—have been the best recruiting tool imaginable for al-Qaida.

This is an astonishing record of mistakes, misjudgments, miscalculations, and mismanagement. It is an astonishing record of George W. Bush again and again playing into Osama bin Laden's hands. It is sort of like watching the cartoon of Wile E. Coyote chasing the Road Runner, only it is not funny. It is a colossal tragedy that has put our Nation at even greater risk.

Ironically, President Bush's father, the first President Bush, warned against the folly of invading and occupying Iraq. On February 28, 1999, speaking to a group of Desert Storm veterans at Fort Myer, VA, he said:

> Had we gone into Baghdad—we could have done that, you guys could have done it, you could have been there in 48 hours—and then what? Whose life would be on my hands as the Commander in Chief because I unilaterally went beyond international law, went beyond the stated mission and said we're going to show our macho? We're going into Baghdad. We're going to be an occupying power—America in an Arab land with no allies at our side. It would have been disastrous.

That is not this Senator saying that; that is former President Bush in February 1999.

Now, of course, we heard the same pathetic warnings from Brent Scowcroft, James Baker, and other foreign policy specialists, but this President and his partner DICK CHENEY and their posse of neoconservative intellectuals thought they knew better. They reveled in words like ''slam dunk'' and ''cakewalk.'' And so now the disaster Bush 41 warned against has become a reality under Bush 43.

President Bush repeatedly says that his No. 1 job is to protect the American people. But the view of professionals on the front line is that he has failed to do so.

The Iraq invasion has set back, rather than advanced, the war on terrorism and al-Qaida. Osama bin Laden remains at large. Our Armed Forces are bogged down in Iraq with casualties rising above 8,000 and are not available to respond to real threats to the United States. In the wake of the Abu Ghraib prison scandals, our moral authority and credibility on the world stage are at rock bottom.

I was watching former President Jimmy Carter, winner of the Nobel Peace Prize, at the Carter Center just a few days ago saying that he has visited 120 countries around the world, and he believes that at no time in the history of our country has our esteem, credibility, and moral authority been at such a low point.

Despite President Bush's loud threats toward the so-called ''axis of evil'' on his watch, North Korea has acquired nuclear weapons. Iran appears to be proceeding with impunity to develop its own nuclear arsenal. Again, this is an extraordinary record of mistakes, misjudgments, miscalculations, and missed opportunities.

As a consequence of the choices made by this President over the last 4 years, I believe today America is weaker, less

secure, and more vulnerable. It is indeed time, past time, to change these policies.

I ask unanimous consent that at the termination of my remarks, two articles, ''Growing Pessimism on Iraq,'' Wednesday, September 29, Washington Post, and an article appearing on September 28 in the New York Times, ''Iraq Study Sees Rebels' Attacks as Widespread,'' be printed in their entirety in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes 40 seconds remaining.

Mr. HARKIN. I want to correct one other thing that was said this morning by the Senator from Arizona. He talked about the connections between al-Qaida and Iraq. He quoted Mr. Tom Kean speaking about that relationship, and I will quote, in its entirety, from page 66 of the report:

> The reports describe friendly contacts and indicate some common themes in both sides' hatred of the United States. But to date we have seen no evidence that these or the earlier contacts ever developed into a collaborative operational relationship. Nor have we seen evidence indicating that Iraq cooperated with al-Qaida in developing or carrying out any attacks against the United States.

Sure, it is true that al-Qaida had relationships with Iraq. They had relationships with Saudi Arabia. They had relationships in Egypt. They had relationships in a lot of countries. But as the report clearly shows on page 66, there was no operational relationship between al-Qaida and Iraq as determined by the Commission.

I yield back whatever time I have remaining.

EXHIBIT 1

[From the Washington Post, Sept. 29, 2004]

GROWING PESSIMISM ON IRAQ

(By Dana Priest and Thomas E. Ricks)

A growing number of career professionals within national security agencies believe that the situation in Iraq is much worse, and the path to success much more tenuous, than is being expressed in public by top Bush administration officials, according to former and current government officials and assessments over the past year by intelligence officials at the CIA and the departments of State and Defense.

While President Bush, Defense Secretary Donald H. Rumsfeld and others have delivered optimistic public appraisals, officials who fight the Iraqi insurgency and study it at the CIA and the State Department and within the Army officer corps believe the rebellion is deeper and more widespread than is being publicly acknowledged, officials say.

People at the CIA ''are mad at the policy in Iraq because it's a disaster, and they're digging the hole deeper and deeper and deeper,'' said one former intelligence officer who maintains contact with CIA officials. ''There's no obvious way to fix it. The best we can hope for is a semi-failed state hobbling along with terrorists and a succession of weak governments.''

''Things are definitely not improving,'' said one U.S. government official who reads the intelligence analyses on Iraq.

''It is getting worse,'' agreed an Army staff officer who served in Iraq and stays in touch with comrades in Baghdad through e-mail. ''It just seems there is a lot of pessimism flowing out of theater now. There are things going on that are unbelievable to me. They have infiltrators conducting attacks in the Green Zone. That was not the case a year ago.''

This weekend, in a rare departure from the positive talking points used by administration spokesmen, Secretary of State Colin L. Powell acknowledged that the insurgency is strengthening and that anti-Americanism in the Middle East is increasing. ''Yes, it's getting worse,'' he said of the insurgency on ABC's ''This Week.'' At the same time, the U.S. commander for the Middle East, Gen. John P. Abizaid, told NBC's ''Meet the Press'' that ''we will fight our way through the elections.'' Abizaid said he believes Iraq is still winnable once a new political order and the Iraqi security force is in place.

Powell's admission and Abizaid's sobering warning came days after the public disclosure of a National Intelligence Council (NIC) assessment, completed in July, that gave a dramatically different outlook than the administration's and represented a consensus at the CIA and the State and Defense departments.

In the best-case scenario, the NIC said, Iraq could be expected to achieve a ''tenuous stability'' over the next 18 months. In the worst case, it could dissolve into civil war.

The July assessment was similar to one produced before the war and another in late 2003 that also were more pessimistic in tone than the administration's portrayal of the resistance to the U.S. occupation, according to senior administration officials. ''All say they expect things to get worse,'' one former official said.

One official involved in evaluating the July document said the NIC, which advises the director of central intelligence, decided not to include a more rosy scenario ''because it looked so unreal.''

White House spokesman Scott McClellan, and other White House spokesmen, called the intelligence assessment the work of ''pessimists and naysayers'' after its outlines were disclosed by the New York Times.

President Bush called the assessment a guess, which drew the consternation of many intelligence officials. ''The CIA laid out several scenarios,'' Bush said on Sept. 21. ''It said that life could by lousy. Life could be okay. Life could be better. And they were just guessing as to what the conditions might be like.''

Two days later, Bush reworded his response. ''I used an unfortunate word, 'guess.' I should have used 'estimate.' ''

''And the CIA came and said, 'This is a possibility, this is a possibility, and this is a possibility,'" Bush continued. ''But what's important for the American people to hear is reality. And the reality's right here in the form of the prime minister. And he is explaining what is happening on the ground. That's the best report.''

Rumsfeld, who once dismissed the insurgents as ''dead-enders,'' still offers a positive portrayal of prospects and progress in Iraq but has begun to temper his optimism in public. ''The path towards liberty is not smooth there; it never has been,'' he said before the Senate Armed Services Committee last week. ''And my personal view is that a fair assessment requires some patience and some perspective.''

This week, conservative columnist Robert D. Novak criticized the CIA and Paul Pillar, a national intelligence officer on the NIC who supervised the preparation of the assessment. Novak said comments Pillar made about Iraq during a private dinner in California showed that he and others at the CIA are at war with the president. Recent and current intelligence officials interviewed over the last two days dispute that view.

''Pillar is the ultimate professional,'' said Daniel Byman, an intelligence expert and Georgetown University professor who has worked with Pillar. ''If anything, he's too soft-spoken.''

''I'm not surprised if people in the administration were put on the defensive,'' said one CIA official, who like many others interviewed would speak only anonymously, either because they don't have official authorization to speak or because they worry about ramifications of criticizing top administration officials. ''We weren't trying to make them look bad, we're just trying to give them information. Of course, we're telling them something they don't want to hear.''

As for a war between the CIA and White House, said one intelligence expert with contacts at the CIA, the State Department and the Pentagon, ''There's a real war going on here that's not just'' the CIA against the administration on Iraq ''but the State Department and the military'' as well.

National security officials acknowledge that the upcoming presidential election also seems to have distorted the public debate on Iraq.

''Everyone says Iraq certainly has turned out to be more intense than expected, especially the intensity of nationalism on the part of the Iraqi people,'' said Steven Metz, chairman of the regional strategy and planning department at the U.S. Army War College. But, he added, ''I don't think the political discourse that we're in the middle of accurately reflects anything. There's a supercharged debate on both sides, a movement to out-state each side.''

Reports from Iraq have made one Army staff officer question whether adequate progress is being made there.

''They keep telling us that Iraqi security forces are the exit strategy, but what I hear from the ground is that they aren't working,'' he said. ''There's a feeling that Iraqi security forces are in cahoots with the insurgents and the general public to get the occupiers out.''

He added: ''I hope I'm wrong.''

EXHIBIT 2

[From the New York Times, Sept. 29, 2004]

IRAQ STUDY SEES REBELS' ATTACKS AS WIDESPREAD

(By James Glanz and Thom Shanker)

BAGHDAD, IRAQ, Sept. 28.—Over the past 30 days, more than 2,300 attacks by insurgents have been directed against civilians and military targets in Iraq, in a pattern that sprawls over nearly every major population center outside the Kurdish north, according to comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.

The sweeping geographical reach of the attacks, from Nineveh and Salahuddin Provinces in the northwest to Babylon and Diyala in the center and Basra in the south, suggests a more widespread resistance than the isolated pockets described by Iraqi government officials.

The type of attacks ran the gamut: car bombs, time bombs, rocket-propelled grenades, hand grenades, small-arms fire, mortar attacks and land mines.

''If you look at incident data and you put incident data on the map, it's not a few provinces,'' said Adam Collins, a security expert and the chief intelligence official in Iraq for Special Operations Consulting-Security Management Group Inc., a private security company based in Las Vegas that compiles

and analyzes the data as a regular part of its operations in Iraq.

The number of attacks has risen and fallen over the months. Mr. Collins said the highest numbers were in April, when there was major fighting in Falluja, with attacks averaging 120 a day. The average is now about 80 a day, he said.

But it is a measure of both the fog of war and the fact that different analysts can look at the same numbers and come to opposite conclusions, that others see a nation in which most people are perfectly safe and elections can be held with clear legitimacy.

''I have every reason to believe that the Iraqi people are going to be able to hold elections,'' said Lt. Col. William Nichols of the Air Force, a spokesman for the American-led coalition forces here.

Indeed, no raw compilation of statistics on numbers of attacks can measure what is perhaps the most important political equation facing Prime Minister Ayad Allawi and the American military: how much of Iraq is under the firm control of the interim government. That will determine the likelihood—and quality—of elections in January.

For example, the number of attacks is not an accurate measure of control in Falluja; attacks have recently dropped there, but the town is controlled by insurgents and is a ''no go'' zone for the American military and Iraqi security forces. It is a place where elections could not be held without dramatic political or military intervention.

The statistics show that there have been just under 1,000 attacks in Baghdad during the past month; in fact, an American military spokesman said this week that since April, insurgents have fired nearly 3,000 mortar rounds in Baghdad alone. But those figures do not necessarily preclude having elections in the Iraqi capital.

Pentagon officials and military officers like to point to a separate list of statistics to counter the tally of attacks, including the number of schools and clinics opened. They cite statistics indicating that a growing number of Iraqi security forces are trained and fully equipped, and they note that applicants continue to line up at recruiting stations despite bombings of them.

But most of all, military officers argue that despite the rise in bloody attacks during the past 30 days, the insurgents have yet to win a single battle.

''We have had zero tactical losses; we have lost no battles,'' said one senior American military officer. ''The insurgency has had zero tactical victories. But that is not what this is about.

''We are at a very critical time,'' the officer added. ''The only way we can lose this battle is if the American people decide we don't want to fight anymore.''

American government officials explain that optimistic assessments about Iraq from President Bush and Prime Minister Allawi can be interpreted as a declaration of a strategic goal: that, despite the attacks, elections will be held. The comments are meant as a balance to the insurgents' strategy of roadside bombings and mortar attacks and gruesome beheadings, all meant to declare to Iraq and the world that the country is in chaos, and that mayhem will prevent the country from ever reaching democratic elections.

In a joint appearance last week in the White House Rose Garden, Mr. Bush and Dr. Allawi painted an optimistic portrait of the security situation in Iraq.

Dr. Allawi said that of Iraq's 18 provinces, ''14 to 15 are completely safe.'' He added that the other provinces suffer ''pockets of terrorists'' who inflict damage in them and plot attacks carried out elsewhere in the country. In other appearances, Dr. Allawi asserted that elections could be held in 15 of the 18 provinces.

Both Mr. Bush and Dr. Allawi insisted that Iraq would hold free elections as scheduled in January.

''The question is not whether there are attacks,'' said one Pentagon official. ''Of course there are. But what are the proper measurements for progress?''

Statistics collected by private security firms, which include attacks on Iraqi civilians and private security contractors, tend to be more comprehensive than those collected by the military, which focuses on attacks against foreign troops. The period covered by Special Operations Consulting's data represents a typical month, with its average of 79 attacks a day falling between the valleys during quiet periods and the peaks during the outbreak of insurgency in April or the battle with Moktada al-Sadr's militia in August for control of Najaf.

During the past 30 days those attacks totaled 283 in Nineveh, 325 in Salahuddin in the northwest and 332 in the desert badlands of Anbar Province in the west. In the center of Iraq, attacks numbered 123 in Diyala Province, 76 in Babylon and 13 in Wasit. There was not a single province without an attack in the 30–day period.

Still, some Iraqis share their prime minister's optimism when it comes to the likelihood that elections, and a closely related census, can be carried out successfully amid so much violence. ''We are ready to start,'' said Hamid Abd Muhsen, an Iraqi education official who is supervising parts of the census in Baghad. ''I swear to God.''

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, the Democratic leader, the managers of the bill, and the leadership on both sides have been in conversation over the last 30 minutes or so looking at the schedule for the bill that is on the Senate floor. It is a critically important bill. We have made good progress, and if we look at the way the day has been spent, it has been spent on very significant legislation. But if we project that out and look at the reality, we have 300 amendments that have been given to the managers and to leadership on a bill that we absolutely will finish before we depart.

We will finish reform of the executive branch, which is on the floor, and reform of the Senate, before we leave on October 8. There is also a lot of other business—the appropriations, the continuing resolutions, and the extensions.

With that recognition, we have 300 amendments. In a little bit, the Democratic leader and I will have a unanimous consent for a filing deadline tomorrow during the afternoon so that everybody will, as we said earlier this morning and late last night, get their amendments in, and language so that we can fully assess how many amendments we are going to really have to deal with. Our deadline that we set this morning at 10 did generate 300 potential amendments.

It is clear we are going to have to pick up the pace on issues that have been discussed thoroughly in committee. We are going to have to, in a very efficient way, have our managers deal with them on the Senate floor and go through the amendments in an orderly way. At some point it may be necessary for us to file cloture. It is not something we want to do, but if we file cloture we would still be able to have germane amendments introduced. That is not the intent, but unless we can work through the amendments, have the amendments submitted, have people come to the floor today, tonight, tomorrow, Friday, and Monday, it is something that at least we will have to consider. I say that, again, to give some sense of urgency that we need to have these amendments come forward. We need to see them, and we need to have the managers have the opportunity to debate them and vote on them expeditiously.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I add my voice of support for what the majority leader said. We want Senators who have amendments to come to the floor to offer them. As we get this filing deadline agreement, we are also going to ensure that Senators are protected. We know there is a backlog with the legislative counsel and that it will take a little time to draft them. So we will accommodate Senators with that practical consideration in mind, but we hope that Senators understand Friday is going to be a full day of work, and we need a lot of amendments offered on Friday.

We are going to have to have all of these amendments debated, and we will look at the circumstances at some point. I will support the cloture motion if we are not making adequate progress. So Senators need to offer their amendments, agree to time limits, and move this legislative process along.

We will get that filing agreement this afternoon, and Senators then will have the opportunity to be clearer as to their intention with regard to these amendments. It is not our desire to hold them precisely to the language of the amendment, but we need to know how many real amendments there are.

I support the majority leader's commitment to both the bill pending as well as to the organization of the legislative branch prior to the time we leave. Both of these matters have to be addressed, and I think as we continue to work as successfully as we have, we can accomplish this work before we leave. We just need the cooperation of all Members in that regard.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we are making good progress. We will continue to come to the floor to give a perspective given the fact that we have so little time before we depart. Again, we are going to finish both the internal oversight as well as the external oversight before we leave because we need to keep working in an efficient, rapid, but obviously deliberative way. We both thank the managers for their tremendous job and leadership thus far.

The PRESIDING OFFICER. The Senator from Alabama.

AMERICAN CANNOT GO WOBBLY ON IRAQ

Mr. SESSIONS. Mr. President, I know we are in a political season, and I suppose that will impact our business in the Senate as we address the many issues that are before us. But the Senator from Iowa just made some comments about where we are in the war on terror that I think need to be discussed.

First, I remember when former President Bush called Maggie Thatcher to ask for her support for his action during the first gulf war. Saddam Hussein had invaded Kuwait and he asked for her support.

Maggie Thatcher said: Of course, Mr. President. Just do not go wobbly on me.

That phrase was discussed quite a lot at the White House. Everyone understood that once a commitment is made to do something like confront a tyrant like Saddam Hussein after he invaded the sovereign nation of Kuwait, that you could not go wobbly once action was undertaken.

Secondly, we spent weeks and months in this body discussing the problem of Saddam Hussein. I know my distinguished friend from Iowa was a military pilot and can appreciate the fact that our aircraft were being fired on over a thousand times as they enforced the no-fly zones over Iraq related to the U.N. resolutions that arose after Hussein's attack on Kuwait.

We were spending billions of dollars maintaining our aircraft in the region because we were concerned about Saddam Hussein. He was in violation of 16 U.N. resolutions, and we urged him to come clean several times. We gave him one last chance to join the civilized nations of the world. He was given those warnings in clear and unequivocal ways. This Senate discussed it and voted on it. We voted with a three-fourths majority to support the President and to authorize the President to make one final demand on Iraq and Saddam Hussein to renounce their weapons of mass destruction, to renounce their activities in violation of the U.N., and to demonstrate that he had complied with the demands of the civilized world.

Saddam Hussein rejected that opportunity, and we knew at the time if he did not comply, that hostilities would begin.

We are all grownups in this body and we knew what it meant when we voted. At the time, the distinguished junior Senator from Massachusetts and now the Democratic nominee for President voted for the resolution that authorized the President to commence hostilities. Now some want to go wobbly. They say that things are not going perfectly. Since we have an election cycle on, they believe they can just say anything they want even if it undermines our soldiers in the field or if it encourages the enemy. And I would add that these detractors will say that if anybody accuses them of harming the effort to defeat terrorism or complains about the impact to the morale of our troops in the field, why, they will just say it is free speech. They believe they can say whatever they want to.

Of course there is free speech. Any Senator in this body can come forth and say whatever they want to. I do not intend to impugn the motives of any who express their views about the hostilities in Iraq at this point. But I would just say this: Some things can hurt. When we have a Senator in an official hearing or on the floor of the Senate make statements before the world such as that the misbehavior that occurred and the illegalities that occurred in Abu Ghirab prison indicated that Saddam Hussein's prison had been ''opened under new management,'' I suggest to you that Senator is subject to being criticized for it. That is because he was wrong, No. 1, and No. 2, it encouraged and gave fodder for those who want to complain that the United States is on a mission to harm the Iraqi people and not to establish a sovereign, free, prosperous government, which is what we want to do. That is our goal.

So it is legitimate that we express concerns about some of the statements made by colleagues. That is an honest debate. If people, in effect, think we have Saddam Hussein's prisons under new management, they have a right to say so. But I submit we have had hearing after hearing, and the evidence clearly shows it is not true. It is not correct. We ought not be saying such falsehoods on the floor of the Senate.

They say things are so bad in Iraq and we are worse off at home. However, Iraqi Prime Minister Allawi recently said:

> ''It's very important for the people of the world really to know what we are winning. We are making progress in Iraq. We are defeating terrorists. Najaf, Samarra, Mosul, Basra are all live examples that a lot of progress has been made. And this is all because of the determination of the Iraqi people.''

They say that the elections can't be held in Iraq. We have heard that argument. This is what Prime Minister Allawi said:

> ''We are definitely going to stick to the timetable of elections in January of next year. We are doing our best to ensure that we meet the time of the elections. We are adamant that democracy is going to prevail, it is going to win Iraq. We are going to stick to this time, and I call upon the United Nations to help us in providing whatever it takes to make the elections a success in Iraq. January next, is going to be a major blow to terrorists and insurgents. Once we go through the democratic process, once we achieve progress towards democracy, the terrorists will be defeated.''

So said Prime Minister Allawi.

Here is what the Iraqi people say. An International Republican Institute poll in Iraq showed this: 87 percent of Iraqis polled nationwide indicated they plan to vote in the January elections. Eighty-seven percent planned to vote!

Most observers understand that it is not good if people won't participate in an election. You would rather have them vote. Whichever side of an issue you prefer, you still want to vote. But a massive boycott of an election would be something that would be serious and cause us concern if people weren't interested in an election. But 87 percent said they intend to vote. Seventy-seven percent said that ''regular, fair elections'' were the most important political right for the Iraqi people. Seventy-seven percent said that.

Here is what the critics say: The U.S. went to war without a ''broad and deep coalition,'' and this has ''divided our oldest alliance, NATO.''

But here are the facts. There are more Iraqi and non-U.S. soldiers on the ground stabilizing Iraq than there are U.S. forces. Besides the United States, there are 32 countries contributing approximately 25,000 soldiers to the coalition operating in Iraq; 15 of the 26 NATO countries have troops on the ground in Iraq. The Iraqi Government has approximately 154,500 soldiers and police forces on hand to provide security and stability throughout the country.

On 22 September, our NATO allies agreed to further implement the decision by the heads of state and government to increase the assistance to the Government of Iraq with the training of its security forces. General Patreus, commander of the 101st Airborne, is over there now. Actually, he was formerly the commander of the 101st. He led them in northern Iraq and Mosul, and he has now gone back to train Iraqi forces. He is a remarkable general with incredible capacity for work, and energy. I am confident that he will be successful.

I know there is much to be accomplished. We have a lot of high goals in Iraq. It is not an easy matter. It is going to be a tough battle, but we are making progress. We will prevail, and we must not go wobbly.

I yield the floor.

AMENDMENT NO. 3766

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator, No. 3766, is the pending business.

Mr. MCCAIN. Mr. President, I would like to discuss my amendment. We are in some discussions right now with other staffs, and hopefully we may have an agreement that would then allow us to agree by voice vote to this amendment. But I want to talk about it because it is a very important issue. It is important to our first responders. It is important to our broadcasters. It is important to public safety.

There is a long history, going back at least to Oklahoma City, that the failure to have the ability to communicate costs the lives of innocent Americans. It really is not any more complicated than that.

I ask unanimous consent that a letter to me from the Association of Public-Safety Communications Officials-

International, the Congressional Fire Services Institute, the International Association of Chiefs of Police, the International Association of Fire Chiefs, Major Cities Chiefs Association, Major County Sheriffs' Association, and the National Sheriffs' Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 28, 2004.

Hon. JOHN MCCAIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR MCCAIN, we are writing to express our strong support for your proposed amendment to S. 2845, the ''National Intelligence Reform Act of 2004,'' to establish a firm date to provide additional radio spectrum for our nation's first responders.

As you know, police, fire, emergency medical and other public safety agencies face severe shortages of radio spectrum in much of the nation, and are often forced to operate on crowded radio frequencies that are incompatible with their neighboring agencies. Additional public safety spectrum would enhance our homeland security by promoting more interoperable radio communications, alleviating dangerous congestion on existing radio systems, and allowing for the implementation of state-of-the-art communications technologies to protect the safety of life and property.

In 1997, Congress required that certain television broadcast spectrum be reallocated for public safety use, but limited access to that spectrum until the uncertain end of the digital television (DTV) transition. Your amendment would establish a firm date of January 1, 2008, to make that already allocated public safety spectrum available nationwide, and end the DTV transition overall as of January 1, 2009. The amendment would also provide a source of funding for future interoperable radio communications, and create an opportunity for further public safety spectrum allocations.

We urge the Senate to reject amendments to your proposal that would add uncertainty for public safety spectrum availability. Without a firm date, state and local governments will not be able to proceed to plan, fund, or construct new interoperable radio communications systems.

Thank you for your continued support of our nation's first responders.

Sincerely,

GREGORY BALLENTINE,
*President, Association of Public-Safety Communications Officials-International.*

STEVE EDWARDS,
*Chairman, Congressional Fire Services Institute.*

CHIEF JOE POLISAR,
*President, International Association of Chiefs of Police.*

CHIEF ROBERT A. DIPOLI,
*President, International Association of Fire Chiefs.*

CHIEF HAROLD HURT,
*President, Major Cities Chiefs Association.*

SHERIFF MARGO FRASIER,
*President, Major County Sheriffs' Association.*

SHERIFF AARON D. KENNARD,
*President, National Sheriffs' Association.*

Mr. MCCAIN. Mr. President, I will quote from some of the letter. It says:

We are writing to express our strong support for your proposed amendment to S. 2805 . . . to establish a firm date to provide additional radio spectrum for our Nation's first responders.

What is the situation today? The situation today is that there are television stations that are on frequencies, channels 60 through 69, that will remain there forever under the present situation. In other words, in an appropriations bill—not through the Commerce Committee but in an appropriations bill—language was included that said that the broadcasters do not have to achieve a transition from analog to digital until 85 percent of the viewing audience in America had access to HDTV.

In testimony before the committee, Chairman Powell of the Federal Communications Commission said that is never. That is never, he said—or decades. We have to get this spectrum freed up so we will have it available for all of our first responders so in the case of a disaster or an attack, they will have the ability to communicate with each other.

As the letter points out, in 1997, and that was 7 years ago:

. . . Congress required that certain television broadcast spectrum be reallocated for public safety use, but limited access to that spectrum until the uncertain end of the digital television transition.

The problem is, for 7 years, since we assigned that date, we have not made that transition and, as I stated, if Chairman Powell is correct, we will never make that transition to the point where the analog spectrum would have to be returned.

The letter from these public safety and first responders states:

We urge the Senate to reject amendments to your proposal that would add uncertainty for public safety spectrum viability. Without a firm date, State and local governments will not be able to proceed to plan, fund or construct new interoperable radio communications systems.

That is the heart of it.

I repeat that the reason I am proposing this amendment is because the 9/11 Commission stated this as one of their urgent recommendations that needed to be acted upon.

I have been made painfully aware over the years of the power and influence of the National Association of Broadcasters. In 1997, they got billions of dollars worth of digital spectrum. They have sat before our committee and promised that by 2003 or 2004 all of it would be returned—all of their analog spectrum would be returned. And, of course, they were able to prevail time after time. I am not going to waste the valuable time of this body describing how they were able to do that. But we are now facing a situation where we have to get this spectrum freed up. We have to do it.

Some will argue it is not enough. We have had testimony before our committee that we need more spectrum for public safety; that we need more for first responders. But right now we don't have enough. Right now. We need to clear this up.

Let me also point out who is sitting on the spectrum channels 60 to 69. Unfortunately, a lot of it is Hispanic television. Some of it is religious broadcasters, and by moving them off that spectrum it obviously would be somewhat discriminatory. The spectrum is being used, as I mentioned, in television broadcasting. This amendment would authorize auctioning off the analog spectrum that is not used and the proceeds from that would be used to purchase set-top boxes for those individuals or families who are still only receiving over-the-air television.

I remind you again why the spectrum is so critical. It is not a new issue. In 1995, the Federal Communications Commission and the National Telecommunications and Information Administration established a Public Safety Wireless Advisory Committee to evaluate the needs of Federal, State, and local public safety officials through the year 2010. The committee included distinguished experts from public safety agencies, equipment manufacturers, commercial service providers, and the public at large. This organization filed its report on September 11, 1996, making key recommendations. The first recommendation was stated quite directly: ''More spectrum is required.''

The committee explained, ''In the short term''—talking about 5 years, talking about 1996 when their report was issued—''approximately 25 Megahertz of new Public Safety allocations are needed. The present shortages can be addressed by making part of the spectrum presently used for television broadcast channels 60–69 available as soon as possible.''

That was back in 1996.

Among other recommendations, the PSWAC noted, ''Funding limitations will remain a major obstacle in the adoption of needed improvements in Public Safety communications systems. At a time when government budgets are tight, alternative methods of funding future Public Safety communications systems must be identified. Otherwise the substantial benefits afforded by technology will not be realized.''

The recommendations of this distinguished commission are as true today as they were 7 years ago. And yet we have continued to fail to deliver this spectrum to public safety.

In 1997, I chaired a hearing examining public safety spectrum issues. My committee heard first-hand accounts of the troubles experienced a the Oklahoma City bombing. We heard chilling testimony from Oklahoma City Council Member Mark Schwartz about the day of the bombing. He said, ''We had our trailer command post, the State, the

county, the Feds: We were next door to one another, because we could not communicate in any other way in our crisis.'' He told the story of standing with an FBI agent whose cell phone was not operating. The only way the agent could communicate with Washington was through a friend of Mr. Schwartz in Florida who had two phone lines in his house. The friend used one line to talk to Oklahoma City and the other line to talk to the FBI in Washington. Mr. Schwartz explained, ''You could not use your cell phones, because they were jammed. Southwestern Bell at this time went down. . . . This is why this additional public safety spectrum has to be in place. Because it means saving lives. And I do not care where it is in this country, the public is entitled to it.''

That hearing was 7 years ago. We are no better off today. The 9/11 Commission report made the following observation: ''The inability to communicate was a critical element at the World Trade Center, Pentagon, and Somerset County, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.'' Nothing has changed.

What happened during those 7 years? Congress got the message, at least partially, following the PSWAC report. In the Balanced Budget Act of 1997, Congress allocated 24 megahertz to public safety. Big win for public safety, right? Wrong. The 24 megahertz was just an empty promise. Why? Because broadcasters insisted on an exception to this requirement. That exception continues to exist today with no end in sight. Under current law, public safety will not receive access to the spectrum until completion of the digital television transition. I asked FCC Chairman Powell at a hearing earlier this month, ''if neither the FCC nor Congress took any further action, when do you think the digital television transition would be complete? He replied, ''decades.''

We cannot wait decades. We cannot stand by while another Oklahoma City or Pentagon or New York incident occurs hoping for broadcasters to act in the best interests of the public rather than the best interest of themselves. We must act now.

The Wall Street Journal characterized the issue quite well on Monday: ''You would think that these days, Congress would be on a terrorism high alert, paying any price to keep the homeland secure. But there's at least one chink in Washington's antiterror resolve, as was evident in the U.S. Senate last week. It involves the broadcasting lobby and the high-stakes politics associated with the transition to digital TV. Most people have heard about big D.C. lobbies like the ones for tobacco and guns. Compared with the broadcasters, though, they're but a few suburban moms writing letters. Multichannel News, a trade paper, says the broadcast industry is 'so potent it's considered immune from the laws of political physics.' ''

The article proceeds to describe the SAVE LIVES Act calling it ''an easy and obvious solution.'' But the article aptly describes the fate of the bill last week in the Senate Commerce Committee: ''But the broadcasting lobby liked virtually nothing about the bill, and senators couldn't muscle up the political will to pass it. The Commerce Committee voted 13–9 against the McCain proposal, approving a vastly watered-down alternative. Only four channels would have to be returned by 2008, and even that handover could be delayed indefinitely if broadcasters could persuade the FCC that doing so would cause ''consumer disruption.'' The National Association of Broadcasters, the main lobby group, says it is only concerned about preserving the ability of millions of Americans to watch free broadcast TV; it also says it is moving as quickly as it can toward digital television. Maybe. It's also possible that Congress, in doing the broadcasters' bidding, has managed a striking bifecta: a ridiculous technology policy that leaves it open to the charge of being soft on terrorists.

I ask my colleagues: If there is another disaster—and I pray every single night that there never is—whether it be a terrorist attack, whether it be a natural disaster, with which we are now becoming unfortunately more and more familiar, will we be able to tell the first responders that we have taken every possible action to give them the ability to communicate with one another to save lives?

I hope I can work out an agreement with my friend from Montana, who has a different philosophical view on this issue, which I respect. I hope I can work out an agreement with him so that we can move forward and close this loophole that has been created, at the same time understanding there are legitimate concerns that broadcasters have in arranging for this transition to take place. But we cannot have it be endless.

I yield the floor.

Mr. BURNS. Mr. President, the Senator from Nevada has asked for 5 minutes. I will let him have his 5 minutes now and I will follow him.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I will not object, is that 5 minutes on the amendment or on another matter?

Mr. ENSIGN. On the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, very briefly, I rise in strong support of what Senator MCCAIN is trying to do. This underlying bill is acting on a lot of the proposals the 9/11 Commission has brought forward. It has recognized some serious problems we face in this global war on terrorism and has asked Congress to address those—at least some of those problems—in this bill. Senator MCCAIN has tried with this amendment to address some more of those problems.

Frankly, we do have a problem with first responders. They do not have the spectrum they need to be able to communicate properly during disasters. We have seen that a few times in the past. The 9/11 Commission has strongly recommended we take the kind of action Senator MCCAIN is trying to take today and free up the spectrum from the broadcasters, the spectrum they have agreed to give up next year—frankly, the hard deadline Senator MCCAIN has put forward is actually years out from that—and the broadcasters are now saying they cannot do that. It would be too expensive for them and cause all kinds of problems.

The broadcasters have had this spectrum for free for a long time. In the agreement—forgetting the digital spectrum—they were supposed to get off of the analog spectrum, which is part of the spectrum we want to give to some public safety groups for better communication.

This is not just a question of radios being able to work. In the future, with the technology that is out there, we are talking about video, about broadband over some of this spectrum that will make our first responders much more effective in the jobs they are doing.

The amendment Senator MCCAIN has brought forward will not only help first responders in the case of a terrorism attack, but it will also do a lot of good things for our economy. Freeing up this much spectrum will probably raise, according to estimates I have seen, around $50 billion for the U.S. Government to help with the deficit. It will stimulate investment in America. It will create jobs.

There will be incredibly exciting new technologies brought forward that we cannot imagine today if this spectrum is freed up.

It also goes to the heart of American competitiveness. We are falling behind on a technology front from the rest of the world. We have to deploy broadband widely across America. Spectrum is a very important part of deploying broadband, and it is critical that we move this process forward, that we not let a special interest group block what will benefit virtually every American.

I rise in strong support of the McCain amendment. I am hopeful we can get this worked out, if not on this bill, on a bill in the near future.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized.

AMENDMENT NO. 3773 TO AMENDMENT NO. 3766

(Purpose: To ensure the availability of electromagnetic spectrum for public safety entities)

Mr. BURNS. Mr. President, we do not want to prolong this debate because we have already discussed it in the Commerce Committee. I have a second-degree amendment that tightens that loophole down a little bit, but I want to set the record straight.

The 9/11 Commission recommendation read this way:

> Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes.

That is all it said. There is spectrum available if the FCC would only assign it.

When we accelerate the transition to digital we are taking the small market television people almost off the air. In fact, some would say that we are turning off about 73 million TV sets. As long as you set a hard date on a transition, those who would supply the equipment for that transition that you have to have, it seems as though the prices never come down.

I have been in the market a little bit. I might have rode in town on the last load of pumpkins, but I didn't fall off the load and break my head. As long as there is a date there, the price will stay high and some of the little stations will never be able to make the transition.

I have the smallest TV market in the United States called Glendive, MT. It is 258th in all the markets. They cannot afford that. In 1998, I sent a check down there to buy the time when I was running for the Senate, and the buy was the biggest buy they had all year. They called me back and wanted to know if I wanted them to send the deed to the station. They thought I had bought the station.

That is what we are looking at. Do we want to take off these little stations? We are talking about public safety—free over the air. Television does weather, a lot of announcements and public service in our local news. How many people could not take their eyes off the televisions in this market whenever these twisters were going around in advance of and behind all of the hurricanes and the leftover hurricanes that come through this area. Do we want to lose those free over-the-air broadcasters? I don't think so, not with the service they provide to our local communities.

We have talked with the first responders, and we have done a lot of work with the first responders. We have a bill on the Senate floor today called E 9–1–1, and the heart of that bill is to make sure that every time you pay your phone bill you pay a little tax, and that money goes to the States so that these communication centers can upgrade, modernize. When you dial 9–1–1 on your cell phone, they can locate you as if you dialed in on a wired line.

I think that is a no-brainer. It only took 4 years to pass the original bill. Now we have to make sure the money goes to the right place. Senator CLINTON of New York and I have been working on that for 2 years. And it still hasn't passed.

This underlying bill we are talking about, as recommended by the 9/11 Commission, this legislation should not even be on this bill because they are talking about intelligence. They are talking about if something bad were to happen in this country. We are talking about after it happens, and that is a whole new kettle of fish.

I am offering a second-degree amendment in the form of a substitute. Basically, it tightens up the loophole that the Senator from Arizona is so concerned about.

I will read it into the RECORD:

> (B) to the extent necessary to avoid customer disruption but only if all relevant public safety entities are able to use such frequencies free of interference by December 31st, 2007, or are otherwise able to resolve interference issues with relevant broadcast licensee by mutual agreement.

That is what we are saying, that the first responders have to ask for it. I will tell you, and I agree with the Senator from Arizona, we are going to lose some stations—and those channels, some of them are minority stations—as a result of this legislation.

I appreciate where the Senator from Arizona wants to go, but I will tell you, market forces usually do a better job in transitioning us into a new era than hard and fast dates do. They do it in an economical sense and let everybody, all competitors, compete and survive in the marketplace.

We know there is going to be demand for high-definition television. I can remember, in 1991, going to the Consumer Electronics Convention in Las Vegas. Do you know what they wanted to do? They wanted the Government to set the standards of high-definition television. My message then was: You do not want the Government to set standards, because when we put them in law, they are there for a long time. Your competition is international. You set the standards. The industry sets the standards, the standards in which they can compete and still make the transition to and use the new technologies that are to come.

That is basically what we are talking about. So I offer this amendment in the form of a substitute and ask for its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I presume we are about ready to perhaps dispose of this amendment.

The PRESIDING OFFICER. Is the Senator from Montana sending an amendment to the desk?

Mr. BURNS. I can do that.

Mr. LOTT. Mr. President, while the amendment is being sent to the desk, let me say I appreciate the way these two Senators and all involved have worked this out. I think this is a suitable arrangement. The spectrum issue and its availability to first responders is very important. But this loophole was an opportunity for the spectrum issue to be avoided, perhaps in perpetuity.

I think the language we have here is reasonable language. I commend my colleagues for being willing to work through it where we will not have an extended debate through the afternoon, which is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I join with the Senator from Mississippi in thanking and congratulating Senator MCCAIN and Senator BURNS for this agreement. I also thank Senator LOTT for his part in securing this agreement. I know he was very helpful. They really reached not only an amicable but a meaningful compromise on how to accomplish one of the goals of the 9/11 Commission, which in its report describes the consequences of the inability of public safety officials to communicate at the World Trade Center, the Pentagon, and in Pennsylvania.

The Commission recommended, specifically, that the Congress ''support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes.''

Senator MCCAIN offered an amendment. The potential existed not only for disagreement about it but for very long debate which would have made it hard for the Senate to move forward expeditiously on the urgent underlying legislation. Senator BURNS and Senator MCCAIN have reached an agreement which is meaningful. It gets something done. I might say, I hope and believe that it may set a precedent for other amendments pending.

There are a lot of people who have said we face some intractable issues on this bill, but here we see clear evidence we can work through these issues and, in that sense, set a precedent for how we can work through the other pending issues on this bill.

I thank everyone involved. I will strongly support the amendment.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Burns amendment be proposed as a second-degree perfecting amendment to the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. I think that clears up the parliamentary situation. So we are now considering the Burns second-degree amendment to the McCain amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 3773 to amendment No. 3766.

Mr. MCCAIN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. That clears up the parliamentary situation.

I thank my friend from Montana. I know how involved he has been on this issue. I was referring back to a hearing we had in 1997 on this issue. I do thank him. This compromise is certainly not what he wanted and it is not what I wanted. I also thank Senator LOTT for his good offices in helping, as well as the cooperation of the staffs, as well as that of Senator HOLLINGS and his staff.

Again, this is not what I wanted. This is not what Senator BURNS wanted. But this is a way to achieve the primary recommendation of the 9/11 Commission, which is to free up spectrum for first responders.

I will not quote again because I do not have it right here, but it is important we get this spectrum to our public safety and first responders so they will be able to communicate in case of a disaster or attack.

The compromise amendment modifies my proposal by eliminating the requirement that all broadcasters vacate the analog spectrum by a date certain. Significantly, this compromise still provides the certainty that public safety was seeking, that they will receive the spectrum they were promised in 1997 by January 1, 2008.

This was not my preference on how to proceed. I never believed in treating broadcasters differently. However, this amendment does so by requiring broadcasters on channels 62 through 69 to vacate their spectrum if there is a bona fide request made by public safety. The NAB is supporting this amendment and has decided to treat its members differently.

This approach has been agreed to by Senators BURNS, HOLLINGS, and myself. Again, it was not my preference to proceed in this discriminatory manner, but in the interest of ensuring passage this year, I thought this was a positive step for public safety. However, I remind my colleagues this disparate treatment should be reviewed by the FCC this year.

The FCC can remedy this discriminating treatment by completing its work toward ending the DTV transition. I urge the FCC to do so. I also urge the incoming chairman, Senator STEVENS, and Chairman BARTON of the Commerce Committee in the House to review this discriminatory treatment and the DTV transition upon Congress's return in January.

Lastly, I remind my colleagues that this approach does not provide public safety the much needed money for equipment or consumers, a subsidy to ensure all over-the-air viewers can continue to view television. It was not my preference to strand public safety or consumers in this manner. I hope in the near term Congress will readdress this need to support public safety equipment funding. I thank my colleagues.

Mr. President, I do not believe there would be any further debate. I think the Senator from Montana would agree to have a voice vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Arizona, the Senator from Montana, and the Senator from Mississippi for working on this issue. I very much appreciate that. I urge adoption of the amendment by a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection, the second-degree amendment is agreed to.

The amendment (No. 3773) was agreed to.

The PRESIDING OFFICER. Is there further debate on amendment No. 3766, as amended?

If not, without objection, the amendment, as amended, is agreed to.

The amendment (No. 3766) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3774

Mr. MCCAIN. 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 Arizona [Mr. MCCAIN], for himself and Mr. LIEBERMAN, proposes an amendment numbered 3774.

Mr. MCCAIN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. Mr. President, on behalf of myself and Senator LIEBERMAN I propose an amendment that includes a number of the national preparedness provisions recommended by the 9/11 Commission and is similar to the related proposal we introduced as part of S. 2774 on September 7. It does not address the issue of homeland security grants or spectrum allocation, as those issues will be addressed separately. I believe that this amendment will be non-controversial, and I hope that my colleagues will support it.

One of the lessons that we learned from the terrorist attacks of September 11 is that not only was our country not prepared to prevent the terrorist attacks, but we were not adequately prepared to immediately respond to the attack. One of the fundamental lessons learned is that we need to do more to prepare our first responders and the general public to respond to a terrorist attack.

The stories of the New York City Police Department not being able to communicate with the New York City Fire Department have led serious efforts to increase the amounts of money devoted to increasing interoperability. Lives of the brave men and women of the fire department and the people working at the World Trade Center were lost during the terrorist attacks due, in part, to a lack of communication and the lack of a coordinated strategy to respond to large scale disasters. We must continue to work to ensure that we equip our first responders with the equipment and training necessary to ensure both their safety and their ability to carry out their critical missions.

The Commission's report emphasizes the importance of teamwork, collaboration, cooperation, and the involvement of key decisionmakers. Their recommendations build upon these themes. The report recommends that emergency response agencies nationwide should adopt the Incident Command System to ensure that there is a command structure in place when responding to an emergency. This amendment expresses the Sense of Congress that the Secretary for Homeland Security require homeland security grant applicants aggressively implement the ICS and unified command systems. The amendment also would follow the Commission's recommendation to remedy the long-standing liability and indemnification impediments to the provision of mutual aid in the National Capital Region.

Consistent with the recommendations, the amendment also would direct the Secretary of Homeland Security to work with the Federal Communications Commission, the Secretary of Defense, and State and local government officials to encourage and support the establishment of consistent and effective communications capabilities in the event of an emergency in a high-risk urban area. The Secretary is also directed to work with the Secretary of Defense to plan for supplying additional back-up communications support in the event of an emergency.

As pointed out by the 9/11 Commission, the private sector controls approximately 85 percent of the critical infrastructure in the Nation, and the report therefore places particular emphasis on the importance of private sector preparedness. The Commission report endorses the American National Standards Institute, ANSI, and National Fire Protection Association, NFPA, voluntary Standard on Disaster/Emergency Management and Business Continuity Programs. The amendment would direct the Secretary of Homeland Security to establish a program to promote private sector preparedness for terrorism and other emergencies, including urging companies to adopt this ANSI/NFPA standard.

In striving to protect our Nation from the threat of terrorism, we must continuously analyze our weaknesses and prepare for the threats of the future. This amendment directs the Secretary of Homeland Security to fulfill this important responsibility by reporting to Congress regularly on his work to complete vulnerability and risk assessments, and the adequacy of the government's plans to protect our Nation's critical infrastructure.

As our Nation continues to stand vigilant against the threats of future terrorist attacks, this amendment takes on additional meaning. Despite all the work done since September 11, it is likely that we will be struck by terrorists again. We must continue to work to ensure that we are ready to respond to any attack. This amendment strives to get us closer to that goal.

Again, I believe that this amendment should be noncontroversial, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend the Senator from Arizona for his amendment. It would implement five important recommendations of the 9/11 Commission that would improve our national preparedness. This amendment would support efforts underway to ensure that Federal, State, and local entities all use what is known as the incident command system. I know that our first responders in Maine are leaders in the Nation in using and training with this system. They have told me how critical it is for effective response to terrorist attacks for there to be a working command structure in place. This can only be accomplished with training and organization before an attack or other such emergency.

Senator MCCAIN's amendment would enable the first responders protecting our Nation's Capital to save lives regardless of which side of the Potomac they happened to be on. It does that by establishing an interstate mutual aid compact in the Washington, DC area. It would encourage coordination and communication in urban areas. It would encourage private sector preparedness and help private industry to be better prepared for an attack as well. It would ensure that a nonregulatory, voluntary program be established to promote preparedness within the private sector, using a consistent methodology to address preparedness.

Finally, it encourages the Department of Homeland Security to take a hard look at critical infrastructure, which the Department is already doing, and report to Congress about its findings.

I urge my colleagues to accept the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am proud to be a cosponsor of this amendment with Senator MCCAIN. It is part of legislation that we introduced early in September, along with Senators SPECTER and BAYH and others, to implement all the recommendations of the 9/11 Commission. This definitely complements the core of the proposal that Senator COLLINS and I and the members of the Governmental Affairs Committee made to the full Senate.

The underlying bill would make historic changes to reform our intelligence community to do the best job we possibly can of knowing where our terrorist enemies are, what they are planning, and to strike at them before they can strike at us based on that intelligence.

We have to be prepared for occasions when terrorist attacks may succeed. That is exactly what this measure is all about. It is preparing our local communities to join in the prevention of attacks and then to improve the public and private infrastructures to be ready to respond in the best possible way.

The 9/11 Commission recognized that even big cities with first responders and public service systems that are highly well regarded can be overwhelmed by a terrorist attack as we saw on September 11. That is why this amendment would encourage people to come together, to work together to coordinate the capabilities of each of their communities into a greater unified force.

This amendment would, therefore, help promote integrated emergency command systems that give an array of response agencies at the local level clear roles and leadership in the event of a crisis.

Specifically, it encourages the Department of Homeland Security to condition its terrorism preparedness grants on evidence that the communities are adopting a so-called incident command system, a coordinated system which I have seen in effect in communities in Connecticut and around the country.

The amendment also calls on the Department of Homeland Security to help create emergency community capabilities in urban areas that are most likely to be targeted for terrorist attacks. This is the complement to the agreement between Senators MCCAIN and BURNS we just adopted.

Finally, the amendment urges the Secretary of Defense to regularly report on the plans and strategies of NORTHCOM, the northern command, the new command designed to defend, through the military, the U.S. homeland. We want to know more about the role envisioned for NORTHCOM, to ensure that the unique capabilities of the DOD are well organized, prepared, and available should the President need to activate them for the defense of our homeland.

Together these provisions are going to bolster our defenses against terrorism, even as the underlying bill—if I can put it this way—works to strengthen our offense, which is the offense of the best, most coordinated intelligence system we can have.

I strongly urge my colleagues to support this amendment.

Before I yield the floor, if there is no further debate, I believe this is a noncontroversial amendment, though a substantial one, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 3774) was agreed to.

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I rise this afternoon to address the question of intelligence reform and the future of our national security establishment.

I believe this is the single most important issue to be addressed by the Congress this year. Today, the Senate is considering legislation which would overturn the current structure of the intelligence community, primarily in response to the recommendations of the Commission established to review the tragedy of 9/11.

While I agree that improvements are needed, I urge all of my colleagues to approach this matter very cautiously. We live in interesting and very dangerous times. Many felt that with the collapse of the Soviet Union we had entered into a new era of world peace. I think most of us here recall that we, the President and the Congress, immediately proceeded to claim a peace dividend, and we sought to reap its benefits by cutting back on national security spending. Perhaps it was the right thing, in a world that had indeed fundamentally changed, to reduce our national security spending. Important programs in both defense and intelligence were curtailed.

In hindsight, some now question why certain areas of the budget were reduced. As the Cold War ended, it was clear we needed to review our national security programs. For 45 years, our defense and intelligence capabilities had keenly focused on the Soviet Union. We had devised weapons systems, strategies, and intelligence capabilities, all designed to counter that threat. Since the fall of the Berlin Wall, our leaders have been working to adjust the focus of our national security apparatus to de-emphasize certain elements of our strategy and accentuate others. These changes have taken a long time and some have met resistance. Those of you who know the military history might recall that during World War I, with the advent of tanks and other motor vehicles, it became apparent that the horse cavalry was obsolete; it simply had no place on the 20th century battlefield. Yet while that war ended in 1917, it took until the 1930s for the Army to completely eliminate the horse cavalry from its ranks.

In his highly acclaimed account of the Cuban missile crisis, ''The Essence of Decision,'' Graham Allison explains how President Kennedy was surprised when Khrushchev wanted to negotiate the removal of our missiles from Turkey, while he removed missiles from

Cuba, but President Kennedy had already directed that the Turkish missiles be removed.

After 42 years in the Senate, I am aware of how frustrating it can be to change the massive national security bureaucracy. It has frustrated the reformers in those agencies who recognize what needs to be done. Each Secretary of Defense and CIA Director since 1990 has worked to change the emphasis of these agencies from a Cold War focus, and they are succeeding, albeit very slowly.

The Congress can legislate changes, but that is only half the battle. As President Kennedy discovered, those who have to implement these changes must do so. We should not be fooled into thinking this bill will be fully implemented, unless it does right by the agency it seeks to change and is supported by them. As written, I do not believe this bill meets that test.

It is clearly our responsibility to make constructive recommendations that can lead to improvements in our national security bureaucracy. That is what the people expect of us. We must be sure that the bill we pass is in fact constructive and will not create greater problems than it solves. If we pass legislation that fundamentally alters the current intelligence structure, we can ensure that it will lead to a period of several years during which the new intelligence community will experience growing pains.

Furthermore, if, in our attempt to strengthen the control of the head of intelligence, we disenfranchise those it is supposed to support, the impact of this bill will clearly be adverse. I understand the frustrations of my colleagues and of all Americans who suffered because of 9/11—those who lost loved ones in particular, but in reality all Americans because our lives were changed by that tragedy.

Every Member of Congress wants to improve our defenses against any further terrorist attack. I say to each of my colleagues again, what is most important, what is absolutely critical is that we make changes that are positive, that improve our national security structure, and that do not have unintended consequences that could jeopardize our security.

We all recognize that we face a new enemy, one that knows no borders and operates beyond the norms of civilized society, but we also know that we have 130,000 troops standing in harm's way, who face a threat significantly different than the one we face here at home.

The new national security system we create must allow us to meet both of these challenges, as it must be able to protect us from the proliferation of weapons of mass destruction and from the threats of nations that might seek to harm us, our allies, or our interests around the world.

I often remark that we have the greatest military in the world, perhaps in the history of mankind. Our young men and women who put on the uniform of this country serve us magnificently. Let me remind you that it is only 1 percent of our citizens who serve in our Armed Forces to protect the remaining 99 percent of us. We are truly in their debt.

It is for them that I strongly support a robust budget to strengthen defense every year. It is also for them that we must ensure we do nothing to weaken the support they get from the intelligence community.

I would like to note that, in addition to our military, our Nation is lucky to be served by the men and women in our intelligence community.

They represent the best in public service. There are those who have criticized our intelligence community since 9/11, but the men and women in this field are truly dedicated, patriotic Americans. In seeking to change how we manage intelligence we must be sure that we remember those who serve in both of these communities.

We are focusing on intelligence reform in this bill because there is need for further improvement. The tragedy of 9/11 and the faulty intelligence which had many believing that Iraq had weapons of mass destruction demonstrate that our system is not perfect. It was exactly these problems which led the 9/11 Commission and many others to call for reforming intelligence.

Like all Americans I commend the Commission for its work. It did a masterful job of reviewing the facts, combing through the massive data, and presenting the results in clear and concise prose. Their report provides a great reconstruction of the events of 9/11 and why it occurred. However, some not that the conclusions they draw may not be fully justified by the facts they uncovered.

Last week, the Appropriations Committee received testimony from several expert witnesses. We heard from a distinguished jurist, Judge Richard Posner, who studied the 9/11 Commission report and was disturbed by its recommendations. He concluded that the Commission went way beyond the evidence presented.

The Commission contends that we had an intelligence failure, that it was a systemic problem as opposed to several mistakes being made by our intelligence community. They blame it on a failure to connect the dots and a lack of imagination.

In their analysis, and also cited by the Committee, for example, they note that several terrorists met in Malaysia and that a few proceeded from there to the United States and took part in the attack on 9/11. They conclude with hindsight that the CIA should have recognized that these terrorists were linked to the bombing of the USS *Cole* and should have informed the FBI and the State Department about the meeting.

It is this type of evidence which the Commission and the Governmental Affairs Committee both cite as the justification for an overhaul of our intelligence infrastructure.

We all wish that our analysts would have been prescient enough to recognize the relationship among these terrorists, and their connection to the *Cole* bombing, and the importance of the Malaysian meeting.

We all wish that these same analysts would have made that information available to the FBI and State Department where there exists a possibility that it would have triggered an investigation of their movements here. But I for one believe it would have taken a lot of luck for that to have happened—more than simply connecting the dots or having better imagination.

Consider this point. It has been more than 3 years since the attack on our Nation. In that time, we have devoted billions of dollars and we have sacrificed many young lives in the war on terrorism, but as far as we know, Osama bin Laden remains hidden from view directing the farflung al-Qaida network.

Would anyone seriously claim that we have not worked hard enough to connect the dots since 9/11?

Intelligence is a tough business. Like me, many of our colleagues have been involved in intelligence oversight for the Congress. I am not telling them something new.

We have witnessed advances in communications and in command and control and other technologies which have revolutionized intelligence. But, with all the highly sophisticated tools in our arsenal, we still can not find Osama.

Earlier this year, former CIA Director Tenet testified to the Congress that it would take another 5 years before we had successfully rebuilt an inadequate human intelligence capability in the war on terror. Some immediately held up the Director's statement as an indication that we have not addressed human intelligence requirements. And that is simply not the case.

For 50 years we promoted human intelligence, but our focus was on defeating international communism in places where it was taking root, primarily in Europe, Asia, and Latin America. In some cases it takes a generation to build a human intelligence network. When we took our peace dividend, we set back the efforts to refocus human intelligence on newer threats.

When the Director says it will take another 5 years, it is not because we haven't been responsive since the rise of al-Qaida. Should we have been working on this more vigilantly? Maybe. But I ask you: Who among us knew at the end of the Cold War that the greatest challenge we were likely to face in the future would come from the son of a Saudi construction magnate?

Had we known that at the time of Desert Storm, could we have convinced all of our colleagues that there should be no peace dividend because we needed to prepare for al-Qaida? We all know the answer to that.

So I ask you: How will changing the intelligence structure solve this dilemma? Will it allow us to grow our human intelligence capability overnight? Obviously not, but it could distort the working relationship among the various agencies so that intelligence support is harder for the agencies, such as the Defense Department, to get.

That could lead agencies with the financial wherewithal to provide that capability internally. That outcome would be expensive and very harmful.

The Commission looks at this issue only through the lens of terrorism, and seeks to ensure better coordination within the community.

In so doing, it fails to consider the varied responsibilities and needs of all the actors which depend on intelligence.

As you know, as ranking member of the Defense Appropriations Subcommittee, I have access to virtually all of our Nation's secrets, including those in the Defense Department and in intelligence programs as well.

Over the past 3 years our Committee has been informed of multiple threats, most of which have never been publicized. The intelligence community must treat each warning with utmost care. They must research and investigate each one to determine its veracity, and then respond appropriately to those incidents which are deemed credible.

In many cases what some call connecting the dots is really like searching for a needle in a haystack. And, just to make it more difficult, there are many hay stacks to examine and in some cases the needle looks exactly like hay. Sure the needles are there and theoretically they could be found, but should we really expect our analysts to find them every time?

Furthermore, I want everyone to realize that we are not standing still. We have come a long way in improving intelligence cooperation.

We created the Terrorist Threat Integration Center to bring analysts from various parts of the community to work together.

The enactment of the PATRIOT Act brought down a wall which had previously blocked information sharing between various parts of the intelligence community and the FBI. Our defense and intelligence leaders are working to break stovepipes and to ensure that information sharing is working.

Certainly more improvements are needed in intelligence cooperation and in new technology to improve information sharing.

Our Nation has the finest national security apparatus—defense and intelligence—in the world. It is not perfect and it never will be. Some areas can be improved. But it is a critical capability.

Our warfighters—our young men and women who, as we speak, are serving in harm's way—depend on seamless intelligence. It is our solemn duty to ensure that we can continue to provide them the best. We must make sure that we do not inadvertently take actions which could sever the link between our defense capabilities and intelligence support.

We cannot take the Secretary of Defense out of the loop simply because we seek to strengthen the head of the intelligence community.

So what changes shall we make to improve the intelligence capability of this country?

First, I would suggest, as recommended by the Commission and the Governmental Affairs Committee, that we establish a national counterterrorism center.

The one real failing of the intelligence community in preparing for 9/11, be it in the FBI, the CIA, the NSA or other organizations was the inability or unwillingness to share terrorist intelligence and analysis completely and seamlessly among the disparate parts of this community.

Many improvements have already been made, but the one reform that truly can respond to the cries from the families of 9/11 victims is to address this issue, and to address it now. This is the most critical change that needs to be legislated and our Intelligence and Armed Services Committees need to follow up to make sure it is implemented and is effective in conducting it mission.

That center needs to be the clearing house for all intelligence on counterterrorism, both foreign and domestic. It needs to work across disciplines and agencies, and it needs to have the support of all of the intelligence community. It needs to be the analytical capability for the community in the field of counterterrorism.

We need to join foreign and domestic analysis together to be sure that we get the full intelligence picture. However, because this Nation believes that foreign and domestic intelligence programs must be separated to ensure that civil liberties and the rights of all Americans are safeguarded, I would urge my colleagues not to give this organization any operational role.

It certainly should conduct analysis and strategic planning, but operational planning and operations should continue to be handled as they are today through other parts of the intelligence community working with the Defense Department overseas and the FBI working here at home in conjunction with other relevant domestic agencies.

I believe that as we establish this new organization, the national intelligence director's charter should ensure that this national counterterrorism center receives the resources it needs and that the director should focus his efforts on this one challenge in its first year of existence.

I agree with the managers of the bill that other intelligence centers may need to be created, but I believe the decision to do so should come from the President based on the recommendation of the national intelligence director with the concurrence of the National Security Council and the Congress.

Most important, we have to make sure we come up with the right solutions for the rest of the intelligence community. What may be right for counterterrorism may not be the solution that best serves our intelligence needs for weapons proliferation or for our military. For those reasons, I am not comfortable with rushing this process.

Some criticize the community for a ''group think'' outlook. They say that the analysis that indicated that in all probability Iraq was in possession of weapons of mass destruction is an example of group think. I am one who questioned the results of that analysis.

With hindsight, I speculate that the community failed because it tried to provide policy makers the answer they wanted rather than a fair interpretation of the facts. Nonetheless, if group think was a problem, how will that be improved by greater centralization of the analytical capabilities in the community? Won't that only exacerbate that problem?

And by creating a more powerful intelligence director with a closer tie to policy making, won't that likely lead to more attempts to sway analysts to reach politically acceptable conclusions?

These are the troubling facts that were not addressed by the 9/11 Commission and are not adequately considered in this bill.

Last week, the Appropriations Committee received testimony from seven witnesses, all of whom are experts in the field of national security and counterterrorism. Included among them were Dr. Henry Kissinger, the current head of the Center for Strategic and International Studies, and former Deputy Secretary of Defense, Dr. John Hamre.

I do not believe I would be overstating their views to say they were quite concerned with the legislation being proposed by the Governmental Affairs Committee.

Their counsel was to be cautious. Dr. Kissinger recommended that Congress study this issue more carefully.

He urged us to take another 6 months before we moved forward on what is the most significant Government overhaul since the National Security Act of 1947.

Last week, noted experts in national security, including former Secretary of State George Shultz, former CIA Director William Gates, former Secretaries of Defense Bill Cohen and Frank Carlucci, and former Senators Nunn, Hart, Bradley, Rudman and Boren, all recommended that the Congress proceed cautiously. They urged all of us to remember the old medical adage: First, do no harm.

This is a most important debate and a most important issue. I know some of my colleagues worry that if we do not

act now we will lose the opportunity for significant change. I recognize this concern. But enacting bad legislation in haste because there is a popular demand to act is not the proper way for this body to respond.

The Senate was created to cool the passions of the people. Our history, our culture, even our rules are all deeply instilled with the concept of proceeding cautiously.

I urge my colleagues to agree with those of us who recommend beginning the process of reform by establishing a new central authority for intelligence, a national intelligence director, any by responding to the specific challenges raised by the events of 9/11 with the creation of a national counterterrorism center.

But I believe we need to give a new administration and Congress more time to determine how the rest of the national security apparatus will be structured. Let us use the coming year to determine how we balance the additional responsibilities and share power among the various components of our national security agencies.

This matter is too important to rush through in 2 weeks in the heat of a Presidential campaign. Please let us act responsibly.

I yield the floor.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I want to give my colleagues an update on an amendment that was offered yesterday. It is an amendment that was offered by Senator WYDEN on behalf of himself, Senator SNOWE, Senator GRAHAM, and Senator LOTT. I believe we have reached an agreement on a compromise to that amendment, which deals with declassification. Actually, I recall the Presiding Officer, Senator CORNYN, is also a cosponsor of the amendment.

We have been able to work out an alternative to the amendment. We are just waiting for language to come from legislative counsel. It is my hope, and I believe the hope of Senator LIEBERMAN, that we will be able to dispose of that amendment this afternoon.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the chairman. That is certainly my hope. I am grateful that all the parties have come together about this amendment. I think we have a solution that doesn't create another board but does realize the goals that Senator WYDEN and the other bipartisan sponsors of the amendment have, to have a reasonable means of asking for a second look, if I can put it that way, at a classification decision made by the executive branch with regard to congressional access to intelligence information. I am very pleased about that and I hope we can get the language here and do it this afternoon.

I also say to our colleagues how important is the announcement made earlier today by the bipartisan leadership, Senator FRIST and Senator DASCHLE. I hope people will respond to it. First, I thank the two of them for the extent to which they have worked in support of the effort Senator COLLINS and I are making and that they are together in support of the effort, which is exactly the standard that needs to be set as we work on this critical national security matter.

Second, there is a clear message, which is that Senator FRIST and Senator DASCHLE may together move to invoke cloture unless there is a steady movement of Senators to the floor introducing their amendments, because there is an excessive—there is an indication of an intention to file over 200 amendments. Senator FRIST has made clear that we are not going to depart from Washington until we finish this bill and take action on the report of the working group, led by Senators MCCONNELL and REID, with regard to reform of congressional oversight of intelligence, as urged on us by the 9/11 Commission.

I am very grateful for that statement of policy by the leadership. We ought not leave here until the Senate completes its work on these two critically important matters. These are urgent. There would simply be no excuse to our constituents, to the American people at large, to have left for political campaigns while the Nation is under clear and present danger of terrorist attack, with a certain unsettling imminence suggested as we lead up to our national elections.

I join with Senator COLLINS in thanking our colleagues who have come to the floor with amendments; those, as was the case with Senators MCCAIN and BURNS, who worked out a very significant and real compromise on what could have been a long distraction on the road to adopting our proposal.

I hope people will now come to the floor. We will be here for a while more today. Obviously, we will be here tomorrow. Leadership told us we will be here Friday and Monday. The sooner we get these amendments in and consider them and dispose of them, the sooner we are going to pass this bill, move on to legislative reform, and recess.

With thanks for the pace we are setting so far and for the support we are receiving, I urge Members who have amendments to come to the floor and offer them at this time. We are open for business.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent I be recognized as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DURBIN are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMODITY CHECK-OFF PROGRAM

Mr. INHOFE. Mr. President, I think we are all familiar with what the Commodity Check-Off Program is. It is a program that is voluntary in all commodities. It allows people to donate to the USDA a small percentage of profits in order to promote their product. This is something that has worked especially well, and something we are having a little problem with now because the USDA says if they change this amount, they do not have the authority to do it.

I will introduce a bill that will give them that authority. It is supported by all farm organizations, by the administration, by the Farm Bureau, by the Farmers Union. There is no opposition. I anticipate that it will be taken up on the floor, and I will introduce it in time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I have asked the two managers of the bill if I might speak in morning business for a few minutes. Let me ask for 7 minutes, and if they need the floor to do business on the 9/11 Commission bill, I will give up the floor. I want to speak of something I think is very important.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISASTER AID

Mr. DORGAN. Mr. President, first I will talk about disaster aid. I will talk specifically about disaster aid for family farmers in the northern Great Plains who have been hard hit.

We have been talking a lot about disaster aid for people who have been victims now of four successive hurricanes in the Southeast. God bless those people who have been victims of the hurricanes. They have had a difficult time. Perhaps none of us can understand how

awful it has been for them. Those storms have swept a wide tract across the southeastern corner of the United States.

I have always believed, in my service in the United States Congress, that for those who need help because of natural disasters, the Congress should help. I have always voted for assistance, when I served in the both the House and the Senate. The people who await the aid need to understand we want to make certain we provide this assistance during this difficult time.

In recent days, I have been reading reports about the disaster aid that the Senate included in the Homeland Security Appropriations bill. In that bill, the Senate included legislation dealing agricultural disaster assistance for family farmers around the country, not just in the Southeast. Now some are saying maybe the disaster aid we put in the Homeland Security appropriations bill will have to be stripped out. I want to talk about that for a moment.

It is critically important that we provide disaster aid not only for those people and those farmers in the Southeast, but also for other farmers around the country who have lost their entire crops due to weather-related disasters.

I was reading an e-mail from a young woman. She wrote an e-mail that I will paraphrase. It describes the culture of family farming and describes why I care so much and why some of my colleagues are so passionate about this issue. Her name is Annie. She writes that her dad is a farmer and was diagnosed with an inoperable brain tumor that proved to be cancerous. He has now been taking aggressive treatment. The prognosis is not great. She said: When we found out about dad's cancer, our neighbors told us not to worry about the farm. She said: My youngest brother was trying to manage the farm on his own this summer, but on August 25, 100 neighbors showed up at the farm with combines, grain carts, trucks, and semis to harvest the wheat. The local Case dealership donated some manpower and some machinery. The local crop insurance agency catered an outdoor barbecue to feed 150 people who worked.

She sent pictures of her dad, who is suffering from a brain tumor, but more importantly a picture of all the combines that came over, all the trucks, all donated, all from folks who showed up because they knew a neighbor was in trouble. It is part of the culture and the value system of family farming. The network of farms that dots the prairies in this country, especially in the northern Great Plains that I know so much about in terms of family farming, is part of the culture of this country.

A wonderful author named Richard Critchfield talked of the origin of family values that originated on family farms, and moved to small towns and big cities to refresh and nourish family values in this country. That is why family farms are so critically important.

In my part of the country this year we did not have hurricanes, but in the spring we had torrential rains. These are pictures of the same State. This is the southwestern corner of my State. It looks exactly like a moonscape, or perhaps the surface of Saturn, as we have seen in pictures. There is no vegetation, nothing growing. There has been a protracted drought. I had people tell me north of Hettinger, North Dakota, they had 2.2 inches of total moisture from January 1 to July 1—6 months, 2.2 inches of total moisture. Their land was destroyed; no vegetation at all.

This picture is the same State, the State of North Dakota, with a farmer standing in his field inundated by water. There were 1.7 million acres in North Dakota not planted this year. Let me say that again: 1.7 million acres could not be planted. Farmers like this farmer standing in the middle of his field risk everything. When they cannot plant their entire farm, they will go broke if they do not get some help. Drought and inundated by torrential rains, they could not plant 1.7 million acres, and in August, when the corn and beets needed heat units to grow, we had a freeze. It was a very unusual occurrence in North Dakota, but it froze in August, a frost that damaged some of these crops.

The Senate passed a disaster aid package for victims in the Southeast recovering from the hurricanes, and also passed an agricultural disaster aid package on the Homeland Security bill. We need to finish that job.

I hear and now read in the National Journal and Congressional Quarterly that some are saying it is likely we will not keep the agricultural disaster package in the Homeland Security bill through the conference committee, because we have some people who do not want that to happen. I would say to those people: There is not a difference between the reimbursement for a crop that was lost in northern Florida or a crop that was lost in northern North Dakota due to a weather-related disaster. They both occur in counties that are disaster counties. They both occur in a way that is devastating to the family farmer and will injure that family in an irreparable way unless this country says, We are here to help you.

I want to tell those who are saying this cannot be done: this must be done. We will help those folks who have been injured by the four hurricanes, but we will also insist on helping others across a wide band of this country who were injured by torrential rains and by a protracted drought in the heartland and parts of the West. There is a broad consensus in the Senate that disaster aid must be helpful also to family farmers in other parts of America. We cannot allow this to be dropped. We must continue to impress upon those who would not include this assistance that when we provide disaster aid, it must include all of those who have been affected and devastated by weather-related disasters.

If I might mention one additional point. We are currently dealing with homeland security and terrorism in the Senate. I commend the managers of the bill on both the Republican and Democrat side. I have watched the debate and the discussion. I think it has been wonderfully done, very professionally handled.

NATIONAL REGISTRY OF CONVICTED SEX OFFENDERS

Mr. President, terrorism comes in many forms. Within our country, one form of terror is perpetrated by sex offenders.

I have introduced a piece of legislation to deal with this problem. I would like to describe why it is important that the Senate Judiciary Committee act on this legislation. And let me, at the outset, thank Senator HATCH, the Chairman of the Judiciary Committee, for his support of it.

Not quite one year ago, a young coed at the University of North Dakota was working at a shopping center in Grand Forks, ND. At about 5 in the afternoon, she left her job to walk out to her car. She was abducted and brutally murdered.

The alleged murderer is now in jail. He will be standing trial. This man had been incarcerated 23 years for violent sex offenses in Minnesota, and then let out of prison. He was considered a high-risk offender, but he was let out of prison to go back on the streets, with no monitoring of any sort.

That afternoon, when this young woman named Dru Sjodin walked out of that shopping center, her assailant was free to roam that parking lot, to abduct her and to brutally murder her.

After this tragic crime, I found out that there was a serious flaw in the way that sex offenders are tracked in this country. If you were living, for example, in Grand Forks, ND, as this young college coed was, and you checked the North Dakota sex offender registry, you would not know that violent sex offenders had been let out of jail in Minnesota and were living in your area, just a few miles across the state line.

I think there ought to be a publicly available national database of convicted sex offenders who are released from prison, so people are able to get a meaningful list of sex offenders in their area, including offenders across state lines.

I also think when a high-risk sex offender is about to be released from prison, the local State attorney ought to be notified, to determine whether to seek further incarceration for the protection of the public.

Third, if a high-risk sex offender is, in fact, released from prison, then there ought to be intensive monitoring following that person's release, for a period of at least one year.

In this case, a high-risk, dangerous offender was released from prison after

23 years. He was under zero supervision. A wonderful young coed from the University of North Dakota walked out of a shopping center. She was abducted at knifepoint and then brutally murdered.

Maybe we save some lives with a bill, which would be known as Dru's Law, that would require a national database to be made available to the American public through the internet.

Maybe we can avoid future circumstances where high-risk sex offenders are turned loose with zero supervision.

I thank Senator HATCH and Senator LEAHY. They have both reviewed this legislation, and both think it has merit. It is not something that would cost very much. It is something that has a great deal of common sense to it. I also thank Senators DAYTON, COLEMAN, CONRAD, JOHNSON, LUGAR, and DURBIN, who on a bipartisan basis have cosponsored this legislation.

I passed a piece of legislation very much like this about 2 years ago. A young woman named Jeanna North, who was 11 years old, was murdered in Fargo, ND, by a man named Kyle Bell. He was being hauled around the country by a private company that was contracted by the State to haul prisoners from one facility to another.

I do not think a convicted murderer should ever leave the arms of law enforcement, and turned over to a private company. But I found out it is done all the time. If they are going to haul a convicted murderer, a violent offender, they will often contract with a private company.

It turns out, they contracted with a company that took this man named Kyle Bell, this murderer, and hauled him around the country. They stopped for gas. One guard was asleep, the other was in buying a cheeseburger, and Kyle Bell crawled out of the bus and walked into a parking lot of a shopping center, wearing his street clothes, mind you.

That will never happen again. There is now a law on the books. It says if you are a private company hauling violent offenders, then there are certain responsibilities with respect to the restraints to be used, the clothing the prisoners must wear while being transported—bright orange clothing—and the Justice Department of the United States must establish consistent rules.

So what happened with Kyle Bell, the fellow who murdered young Jeanna North, is not going to happen again. Someone is not going to walk into a shopping center in street clothes because a private contracting company was transporting a convicted murderer and one was asleep in the van and the other was buying a cheeseburger and the convicted murderer walks off. That is not going to happen again.

Sometimes it is just a matter of common sense. It seems to me with respect to this issue of Dru's Law, dealing with high-risk convicted sex offenders, we can do much, much more, and we should do much, much more.

I, once again, say to Senator HATCH and Senator LEAHY, thank you for your cooperation. I know you have been working to see how we might move this legislation. I am looking forward to having it a part of other legislation that moves from the Judiciary Committee.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3704

Mr. LIEBERMAN. Mr. President, the Senator from Oregon, Mr. WYDEN, along with a very impressive bipartisan group of cosponsors, introduced an amendment of real import 2 days ago. We said we would try very hard to work it out. I am quite delighted and grateful that we have worked it out in a way that is acceptable to all involved and it accomplishes a very significant public purpose. I thank the Senator from Oregon for all he did to bring us to that point.

I happily yield the floor to him.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I express my appreciation to both the distinguished Senator from Connecticut and the chairman of the committee, Senator COLLINS. As I said on Monday, the Senate is well served by having this bipartisan duo that has long practiced good government steering us on this important piece of legislation.

The Senator from Connecticut is absolutely right; the three of us have worked very cooperatively over the last few days. Senator LOTT also has made a valuable contribution, as well as Senator CORNYN, Senator DAYTON, and Senator SNOWE. A bipartisan group of Senators has been concerned about this issue. I believe the legislative counsel's office will have the actual language to bring to the Senate very shortly, probably in 10 or 15 minutes.

With the agreement of the Senator from Connecticut, I will take a few minutes to outline what the distinguished Senator from Maine, the Senator from Connecticut, myself, Senator LOTT, and our group have agreed to.

The ability to stamp a Government document secret is one of the most powerful tools in our Government. The backdrop for this whole debate was best summed up by Governor Kean, who did such a good job in chairing the 9/11 Commission, who said three-quarters of all the documents he saw associated with his work on the 9/11 Commission that were classified should not have been classified. The power to stamp, in effect, Government documents secret is now a power wielded by people in the belly of 18 Federal agencies where they now classify more than 14 million new documents each year. This is a power that costs taxpayers about $6.5 billion a year, and it is a power that is simply out of control.

Senators on both sides of the aisle recognize that the system used to classify information for national security purposes is broken. It has been the premise of our bipartisan group that it is possible to fight terrorism ferociously, aggressively, and at the same time make sure that the public's right to know information the public is entitled to is addressed.

When we look, for example, at the Senate Intelligence Committee—Senator LOTT, Senator SNOWE, Senator BAYH and I serve on that committee—had it not been for the exceptional work of Chairman ROBERTS and Senator ROCKEFELLER, much of what we tried to do with respect to our bipartisan report on prewar intelligence would have simply been censored. It would have all been drowned in a sea of black ink. So what we need to do is bring some common sense to this area which is now a hodgepodge of laws and regulations and directives. We are now in a position to outline the changes we have agreed to in our legislation.

First—most importantly—this legislation establishes an independent body known as the independent national security classification board which would review existing or proposed classification of any document or material. They would, in effect, be part of an effort for the first time to ensure that there would be an independent board to which there can be an appeal of classification decisions. Although right now an executive agency has had an appeals body, it has been off limits to congressional requests. For the first time, there will be an independent board that will look at these classification issues and there will be a right of the Congress to appeal a decision.

The distinguished chair of the committee was not on the floor, but I want to express while she is here my appreciation to her. What this has been all about from the very beginning is not a Democratic or Republican issue.

This has been about righting the imbalance between the executive branch and the legislative branch with respect to classification decisions. That is what we have been able to do. It ensures that any President's prerogatives as Commander in Chief are maintained. That is essential with respect to national security issues.

We will also have a chance to bring some real independence to the process of how Government documents are classified by ensuring that for the first time there is an independent route to have a classification decision reviewed.

That process will come after we have had a top-to-bottom review of the standards and processes used to classify information. The chair of the committee and I have talked about this in the past. What has been striking is we have never even done a review of the processes that are now used to classify

documents. People such as those who run the National Archives have said that has been a factor in our having such a chaotic system.

So for the first time, again, Congress would have input into the scope of the review that would take place with respect to how Government documents are classified as well as the guidelines or standards that would be issued as a result of the review.

The independent national security classification board the amendment establishes would assume the duties of a group now known as the public interest declassification board. The new board would be made up of nine individuals, five of whom are appointed by the President and four of whom are appointed by the Senate and the House leadership. This is an effort to try to maintain a new kind of balance between the legislative branch and the executive branch.

In order to make sure that balance is maintained over time, the new board may recommend changes in the classification of all or portions of documents, but the President does not have to accept them. However, the key feature here is, if the President chooses not to accept a recommendation of the independent national security classification board, the President would have to submit to Congress in writing the justification for a decision not to implement the recommendation.

To reiterate, there would be an independent body to which Congress can appeal national security classification decisions, but at the same time, if the President doesn't see it in the same way the independent board does, the President, as Commander in Chief, still has the power to exercise the constitutional prerogative as the President determines, but for the first time it would have to be done in writing. I do not subscribe to the view that there is an inherent conflict between the executive branch's accountability to Congress and the American people on one hand and the constitutional role of the President as Commander in Chief. We have long needed a balance in this area, a balance between the public's need for sound, clear-eyed analysis, and the executive's desire to protect the Nation's legitimate security interests.

In my view, there is no room in this equation for the use of classification to insulate officials and agencies from politics. That was essentially the motivation that got Senator LOTT and Senator SNOWE and a bipartisan group of us in the first place. We have seen this abused again and again.

Senator Moynihan did exceptional work years ago, documenting how so many documents have been classified largely because they were trying to provide political cover rather than protection for this country's national security. Senator Moynihan was a mentor to me because when I came to the Senate, I said I was interested in making changes.

Senator COLLINS has been very helpful. She has also been helpful on some of the other issues we will take up in the course of this legislation, particularly the data mining area, where she and Senator LIEBERMAN have a great interest as well.

But Senator LOTT, Senator BOB GRAHAM, Senator CORNYN, Senator SNOWE—the group who worked on this issue—are very appreciative of the help we received from the chair and the ranking minority member.

This amendment involves millions of Government documents. It involves more than $6 billion that is spent on the classification system each year.

I think we are starting now to lift this kind of fog of secrecy—changing a classification system that rewards secrecy and discourages openness. We will have the amendment actually before the Senate probably in a few minutes. In the interest of time—I know the hour is late and Senators have amendments—I wanted to speak about this, and I wanted to describe what it was that we have agreed to.

Senator COLLINS's staff and Senator LIEBERMAN's staff have put in a lot of hours with us over the last few days. I am very appreciative and particularly pleased that it would be possible to make these kinds of changes. Senator Moynihan was right years ago when he advocated a process that brought some real independence and a right of appeal to a classification decision. The amendment we will offer tonight does just that.

I see the distinguished chairman of the committee in the Chamber. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I express my appreciation to Senator WYDEN. He is always so good to work with on so many issues, and we have enjoyed working on this one as well.

I want to recognize that Senator LOTT was also very involved in the negotiations and working with Senator LIEBERMAN and me to modify this amendment in a way to preserve the goal of the amendment, and yet to address some concerns we had about creating a new board, unnecessary bureaucracy, or some duplication.

As I indicated when Senator WYDEN first offered his amendment, I believe he is addressing a very real problem, and that is improving the way we classify and declassify documents. I know the members of the Intelligence Committee have been very frustrated with the process that they went through in developing a lengthy report, only to have so much of it redacted and to have no good way of appealing those redactions, no good way of challenging what many members of that committee, on both sides of the aisle, viewed as excessive secrecy or excessive classification.

I have been concerned that the original amendment intruded unnecessarily into the President's constitutional prerogative and duplicated some of the provisions in our bill. I believe the changes we have worked out so cooperatively go a very long way toward addressing the concerns we had while advancing the goal.

Rather than creating a new board to review the classification policy, Senator WYDEN's amendment would now ensure that Congress has an opportunity to make comments regarding the Presidential review of classification policies already established under the Collins-Lieberman bill, and even more importantly to the Senator who has said we need an independent place for Congress to go to bring appeals regarding classification decisions, the revised amendment has agreed to build upon a board that already exists, the Public Interest Declassification Board. The amendment would change the name of that board to the Independent National Security Classification Board. This board was established in 2001, but it is still being put into place.

Under the Wyden amendment, it will have specific authority to hear appeals of classification decisions from specified congressional committees. The board would then make a recommendation to the President, which the President could either accept or reject. If the President rejects the board's decision, then the President, as the Senator indicated, would have to send a written justification of that decision to Congress. This framework helped to address some of the concerns we had about the original amendment.

I will note that this is not the administration's favorite amendment, even in the revised form, but I believe we have struck a fair balance and I am prepared to recommend that we accept the amendment once we get it. I understand it is going to be here momentarily. There were a few technical glitches.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, again, I thank Senator WYDEN. It was a pleasure for us and our staffs to work with him and his staff. As I said, this is a substantial accomplishment. I particularly enjoyed the Senator's reference to the late, great Senator Pat Moynihan. I have a vision of Pat in Heaven smiling right now. I can see that smile. He is probably not wearing that hat that we all loved so much at the time.

The important thing here is this is a right of appeal, if you will, regarding the President's power to classify documents. That is a right that will exist in a limited number of Members of Congress, interestingly and importantly, of both parties. The ultimate beneficiaries, of course, are the American people.

Members of Congress have access to matters that are fully classified. So this is really the public's right to know. If these Members of Congress decide that the public has a right to know, ought to have a right to know the content of something that has been classified, they will have the right to

appeal to this board for review. It is a very finely balanced compromise that is substantial, real, and preserves the President's right as Commander in Chief to have the final word. So this was real legislating in the public interest.

I thank the Senator and his cosponsors for the leadership and persistence that brought this matter to the floor and results now in this agreement which I think will receive unanimous consent from the Senate.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I will be very brief. Again, I express my appreciation to the chair and ranking minority member. The chair made an important point with respect to the executive branch. Clearly, no President, no executive branch is going to ever hold a rally in favor of this kind of idea.

I think the Senator mentioned Senator LOTT. Senator LOTT has been invaluable from the very beginning. He said we just have to build in—whether it is Democrats or Republicans—a new sense of independence. I have tried to say that there is no question in my mind, whether it was a Democratic administration or a Republican administration, what you are talking about are human beings who I think inherently are going to be concerned about something coming out. So out comes the stamp and something is marked ''classified,'' and by the time the rubberstamp program is done, you have millions of documents classified in our country for reasons that have nothing to do with national security.

The Senator from Maine has summed it up very well. I am sure we are going to continue to hear from the administration as this is debated in the Senate and in the House. I do think we have struck a balance that ensures that by giving the President, in effect, the first word on a classification decision, through their appointees having the ability to classify a Government document and, in effect, the last word on a subject, because the independent board makes the recommendation to the President, if the President decides he doesn't want to go along with the independent board, they get the last word by stating in writing why they think the independent board is off base. I think that is the kind of balance between the executive branch and the legislative branch that we ought to have.

What pleases me is tonight this is the end of the line for a classification system that, in effect, encourages secrecy, discourages openness, and I am glad a bipartisan effort could have put all this time into it. I think we will have the amendment over here quickly. With the concurrence of the chair and the ranking minority member, it is not my intent to ask for a recorded vote. I think we can do it on a voice vote.

I yield the floor.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3727

Ms. COLLINS. Mr. President, on behalf of Senator CORNYN, I send an amendment to the desk, and I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. CORNYN, proposes an amendment numbered 3727.

Ms. COLLINS. 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 amend provisions of law originally enacted in the Clinger-Cohen Act to enhance agency planning for information security needs)

At the appropriate place, insert the following:

**SEC. ____. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.**

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting ''security,'' after ''use,'';

(2) in section 11302(c), by inserting '', including information security risks,'' after ''risks'' both places it appears;

(3) in section 11312(b)(1), by striking ''information technology investments'' and inserting ''investments in information technology (including information security needs)''; and

(4) in section 11315(b)(2), by inserting '', secure,'' after ''sound''.

Ms. COLLINS. Mr. President, this proposal amends the Cohen-Clinger Act to explicitly require Federal agencies to emphasize information security from the earliest possible stages of a new system's IT capital planning and investment decisionmaking process.

The Office of Management and Budget has instructed agencies through its budget guidance that information security must be a vital part of the capital planning and investment control process. Amending the Cohen-Clinger Act to codify this guidance will ensure that the law reflects a certain threat environment in cyberspace and requires that information security be an integral part of the Federal acquisition process for the long term.

Security should be reinforced as we migrate toward a more interoperable environment. I believe this amendment is helpful. It is my understanding that it has been cleared on both sides.

Mr. LIEBERMAN. Mr. President, this is a good amendment. I thank Senator CORNYN for offering it. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 3727.

The amendment (No. 3727) was agreed to.

Ms. COLLINS. 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.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3763

Ms. COLLINS. Mr. President, on behalf of Senator COLEMAN, 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 Maine [Ms. COLLINS], for Mr. COLEMAN, proposes an amendment numbered 3763.

Ms. COLLINS. 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 amendments made by section 202, regarding the National Homeland Security Council)

On page 117, strike line 1 and all that follows through page 118, line 7.

Ms. COLLINS. Mr. President, Senator COLEMAN has offered an amendment that would strike the language in our bill that merges the Homeland Security Council into the National Security Council. I note that the administration yesterday in its Statement of Administration Policy, in which it endorsed passage of our legislation, expressed considerable concern about the provisions that would reorganize the President's internal policy staff by merging the National Security Council and the Homeland Security Council. The administration feels strongly that Congress should not legislate and make permanent the internal organization of the President's own executive offices or otherwise limit the flexibility needed to respond quickly to threats or attacks.

In looking further at this issue, I agree with the concerns raised by the administration. Senator COLEMAN's amendment striking the merger of those two councils within the Executive Office of the President is acceptable to me.

That is what his amendment would accomplish. I believe the amendment has been cleared on both sides and I urge its passage.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment. I thank

Senator COLEMAN for submitting it. The Homeland Security Council was, as I recall, created by the President and then made into statute as part of the Homeland Security Act that created the Department of Homeland Security. It was meant to be an advisory board to the Secretary of Homeland Security and also a place to which the Secretary could bring representatives of other departments that might not be in the security community normally, such as the Department of Health and Human Services, in terms of bioterrorism, for instance. So I think it has played an important role.

The 9/11 Commission report very gently recommended that we consider merging the Homeland Security Council into the National Security Council. Senator COLEMAN raises a concern that I think is justified as to, one, whether all of these items ought to be on the agenda of the National Security Council, which is already quite busy; two, that this council has a constructive role to play uniquely for the Department of Homeland Security, and insofar as one of the thoughts behind the Commission's suggestion was that merging the Homeland Security Council into the National Security Council would provide a forum where disputes between departments could be resolved, the President, of course, always reserves the right to call the heads of the relevant departments together to do that.

So the long and the short of it is, I think it is too early to—what was the Mark Twain line? The rumors of my death are premature, or something like that. I think the same could be said of the Homeland Security Council. There is a reason for it to live on. Senator COLEMAN's amendment achieves that, and I support it.

The PRESIDING OFFICER (Mr. ALEXANDER). Is there further debate?

If not, the question is on agreeing to amendment No. 3763.

The amendment (No. 3763) was agreed to.

Ms. COLLINS. 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.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3704, AS MODIFIED

Ms. COLLINS. Mr. President, on behalf of Senator WYDEN, I send a modification of the Wyden amendment No. 3704 to the desk. I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3704), as modified, is as follows:

On page 134, line 14, insert ''issue guidelines'' before ''on classification''

On page 134, strike lines 16 and 17 and insert the following:

commonly accepted processing and access controls, in the course of which review, the President may consider any comments submitted by the Select Committee on Intelligence, the Committee on Armed Services, the Committee on Foreign Relations of the Senate, and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives regarding—

(i) the scope of the review the President should undertake in formulating the guidelines under this subparagraph; and

(ii) the substance of what guidelines should be issued.

On page 177, after line 17, add the following:

**SEC. 226. CONGRESSIONAL APPEALS OF CLASSIFICATION DECISIONS.**

(a) REDESIGNATION OF PUBLIC INTEREST DECLASSIFICATION BOARD AS INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.—(1) Subsection (a) of section 703 of the Public Interest Declassification Act of 2000 (title VII of Public Law 10–567; 50 U.S.C. 435 note) is amended by striking '''Public Interest Declassification Board''' and inserting '''Independent National Security Classification Board'''.

(2) The heading of such section is amended to read as follows:

**''SEC. 703. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.''.**

(b) REVIEW OF CLASSIFICATION DECISIONS.—

(1) IN GENERAL.—The Independent National Security Classification Board shall, pursuant to a request under paragraph (3), review any classification decision made by an executive agency with respect to national security information.

(2) ACCESS.—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) REQUESTS FOR REVIEW.—The Board shall review, in a timely manner, the existing or proposed classification of any document or other material the review of which is requested by the chairman or ranking member of—

(A) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(B) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) RECOMMENDATIONS.—

(A) IN GENERAL.—The Board may make recommendations to the President regarding decisions to classify all or portions of documents or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) IMPLEMENTATION.—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress justification for the President's decision not to implement such recommendation.

(5) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection.

(6) EXECUTIVE AGENCY DEFINED.—In this section, the term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

Ms. COLLINS. Mr. President, this modification was debated earlier this evening. There is no further debate on the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3704), as modified, was agreed to.

Ms. COLLINS. I move to reconsider the amendment and I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, in consultation with the managers of the bill, it is the desire of the majority leader and Democratic leader to keep moving tonight. I will send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

AMENDMENT NO. 3781

Mr. WARNER. Mr. President, in the study of the 9/11 report, frequent reference is made to the Goldwater-Nichols Act. It is a piece of legislation in which, as a member of the Armed Services Committee, I had a great deal of participation, working on this particular statute. It was an attempt, and a successful attempt, to rewrite the defense-related laws, and describes certain changes which would make the Department and particularly the Joint Chiefs of Staff a more effective body.

I want to refer to one provision.

I ask unanimous consent that certain portions of the statute be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. WARNER. Mr. President, that provision reads as follows:

Advice and Opinions of Members Other Than Chairman . . . A member of the Joint Chiefs—

That could be the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps.

I repeat:

A member of the Joint Chiefs of Staff—other than the Chairman—may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President—

That is the President of the United States—

—the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

We learned that in the course of the past 18 months or maybe longer—I will not try to define the exact period of time—when our President was making

decisions in connection with certain advice he was receiving from the intelligence community—I will just touch on this lightly, and perhaps others will want to address this with more specificity—certain caveats, being other opinions—the opinions, say, of the Director of Central Intelligence—were not brought with sufficient force and effect to the attention of the policymakers.

The purpose of my amendment is to enable a framework by which, following the precedents of the Goldwater-Nichols Act, certain individuals in the contemplated new legislative framework as described by the distinguished chairman and members of the Governmental Operations Committee, other opinions will be brought to the attention of the President at such time as the NID is briefing the President.

I will refer with specificity to the amendment I have sent to the desk at this time. The first paragraph is technical, so I will omit that. I will go right to the operative paragraph:

Advice and opinions of Members other than Chairman. ''Members'' refers to the Joint Intelligence Community Council which is established, it is my understanding, by the chairman's statute.

A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council [or the Secretary of Defense] is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the council.

Lastly, ''Recommendations to Congress:

Any member of the Joint Intelligence Community Council may make such recommendations to Congress.

I presume that would be interpreted as the leadership of both Houses and the chairmen and ranking members of the relevant committees.

The reason I have not been more specific here is that we are awaiting the decisions of the group on which I am privileged to serve headed by the distinguished whip, Mr. MCCONNELL, and on other side the distinguished whip, the Senator from Nevada, Mr. REID.

In other words, as we look at the revisions that will be proposed in connection with the oversight responsibilities of the Congress, that may require some refinement.

I will reread it:

Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence committee as such member considers appropriate.

I think that is the insurance that is quite visible to put in place such that other opinions can be considered by the President of the United States.

Throughout, the 9/11 report referred to: We have to have imagination. We often use the phrase ''be competitive'' with opinions within the structure of the intelligence committee. I believe that is all good. I really do. And the purpose of this amendment is to ensure that there is in law a procedure that these important members of this council will have the opportunity to see that their views are presented contemporaneous—at the same time the President receives the views of the NID. That is the purpose of the amendment.

I understand tonight it will be pending, and at such time as the distinguished chairman of the committee wishes to come over and review the subject with others, I would be happy to do so.

EXHIBIT I

(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Chief of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

(e) ADVICE ON REQUEST.—The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice.

(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

Ms. COLLINS. Mr. President, I thank the distinguished chairman of the Senate Armed Services Committee for coming forward this evening and laying down this amendment. He has explained very clearly the purpose. I very much appreciate that explanation.

As the Senator is aware, the ranking member of the committee had a commitment for this evening. I would like to hold the amendment over until tomorrow morning. But I am very grateful to the Senator for laying down the amendment this evening so that we can continue to make progress on this bill. As always, he has given his proposal a great deal of thought. I appreciate the parallels that he is drawing to the provisions of the Goldwater-Nickles Act and the fact that the members of Joint Chiefs are allowed to present their views independently to Congress and to the President. I very much appreciate his laying down the amendment tonight. I look forward to having further consideration in the morning.

Mr. WARNER. Mr. President, I thank the distinguished chairman for her views.

I ask unanimous consent that Senator STEVENS be listed as a cosponsor of the amendment. There may be others in due course that would like to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I am privileged to offer one of the first amendments. I have other amendments of which I think the chairman is aware. We are going to comply with her request and the leadership to have the text before them within the amendments that are established. I want to be very constructive as a working partner as we move forward with this important piece of legislation.

Ms. COLLINS. Mr. President, the distinguished chairman of the Senate Armed Services Committee is always constructive in every way. I very much appreciate the thought and the knowledge he has and the depth with which he explores important issues.

Mr. WARNER. Mr. President, on that note, I best yield the floor.

AMENDMENT NO. 3781

Mr. WARNER. 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 Virginia [Mr. WARNER], for himself and Mr. STEVENS, proposes an amendment numbered 3781.

Mr. WARNER. 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 modify the requirements and authorities of the Joint Intelligence Community Council)

On page 119, beginning on line 17, strike ''upon the request of the National Intelligence Director.'.'' and insert ''at least monthly and otherwise upon the request of the National Intelligence Director or another principal member of the Council.

''(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

''(2) The Chairman shall establish procedures to ensure that the presentation of the

advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

''(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.''.

Ms. COLLINS. 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.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

## MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators able to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO IRVING B. HARRIS

Mr. DURBIN. Mr. President, last Saturday, on September 25, the city of Chicago, the State of Illinois, and our Nation, lost a great man. Irving Harris died at the age of 94 in the city of Chicago. He was my friend and my inspiration.

I have been called on many times to give commencement speeches at colleges and universities, medical schools and law schools. When I speak to the young students about what they can make of their lives, I never fail to tell them the story of Irving Harris and his life. It is a great story, and one that I would like to share with my colleagues in the Senate.

Irving Harris was born and raised in Saint Paul, MN. He and his two brothers were raised by a father, who was a merchant, and a mother who inspired him and his two brothers, in their words, ''to always be No. 1 in your class.'' They listened carefully to their parents and they succeeded in almost unimaginable ways.

The two Harris brothers, Neison and Irving, joined a friend and started a company in 1946, the Toni Home Permanent Company. Within 2 years, Tony home permanents had become so popular across the United States that they sold this company to Gillette for $20 million. The year was 1948; $20 million was a huge sum of money.

If you followed his business career, Irving Harris went on to do many things—to be the director of a mutual fund, to start another company in North Brook, IL, the Pittway Corporation, which he ultimately sold for some $2 billion. Just those facts and those stories alone tell you of the business success of Irving Harris. But if you were to stop with those stories, you would not understand his greatness, nor would you understand the real measure of this man.

Unlike some people who were given great gifts of wealth and skill and then used them to make their own lives more comfortable, Irving Harris saw life much differently. He was a man who was constantly looking for ways to help others, particularly ways to help children. And for over 60 years, he took his wealth and his business success and devoted it to helping other people in so many different ways.

He helped create the Yale Child Study Center at Yale University to honor his alma mater but also to try to find ways to help children born in poverty have a full and successful life.

He provided the funds that launched the center for the University of Chicago's Graduate School of Public Policy Studies, which bears his name, and the Erikson Institute for Advanced Studies in Child Development.

Irving Harris believed that children, if given the right nurturing experience and the right chance, could succeed. A lot of people believe that. But he invested his money in that belief.

He started the Ounce of Prevention Fund in the city of Chicago in the State of Illinois to prove that point again. He was one of the early people pushing for Head Start.

Let me read to you what Irving Harris said in one of his books. The book is entitled, ''Children in Jeopardy: Can We Break the Cycle of Poverty?'' Irving Harris wrote in 1996, ''I believe that God's gift of brain potential is not discriminatory.

''Kindergarten is much too late to worry if a child is ready to learn. We must begin in the first days and weeks and months of life to get children ready to learn.''

That was his passion and that was his belief. That fueled his life and his interest.

The many times that we would sit down and talk about policies, he would come back to these points about how many wasted lives of children there are in America because we didn't start soon enough and we didn't do well enough and we didn't understand the complexity of the challenges facing these children.

So this man so successful in business focused so much of his life and time on children and helping them in so many different ways.

He was certainly good at business—one of the best. But he took that success and he took that money and tried to improve the lives of others.

His philanthropy didn't end there. There is hardly a place you can turn in Chicago without seeing Irving Harris's name or the name of his wife Joan. They left their mark in our city as they left it in our Nation.

Joan, Irving Harris's wife of 30 years, whom I met just the other day, recounted her frustration when she was trying to build a new theater in downtown Chicago for music and dance to make it part of Mayor Daley's hugely successful Millennium Park. She turned to Irving one day and said: I just think we are going to have to give up. I don't think I can come up with money to build the theater.

I will not quote him exactly, but Irving basically said: I feel like that myself, and I don't think I am ever going to get the promised land. We are going to do it.

He told Joan they were going to do it, and they did. They made a massive investment in that theater—some $39 million of the $52 million price tag to build that theater. That theater is going to endure in his name and in the name of Joan Harris. It is going to entertain, and it is going to remind a lot of people of the good in culture, in music, in art that really lifts us all.

They did the same thing, incidentally, in Aspen, CO. If you go to Aspen, CO, where they used to spend some time, they decided they needed a special place—an outdoor gathering place for music festivals—you will find that Harris music gathering place, the Harris Music Center, just another part of his legacy.

The University of Chicago President, Don Michael Randel, called Mr. Harris ''one of those extraordinary and toorare individuals whose passion and humanity made a real difference in the lives of others.''

Mr. Randel said:

> Because of his foresight and his generosity, countless disadvantaged children have been able to fulfill their potential and to become productive citizens. And many of the most fundamental social problems suffered by children and families now have some hope of resolution thanks to the research he has so generously supported.

In addition to his wife Joan, Irving Harris is survived by his daughters, Virginia Polsky and Roxanne Frank; a son Bill, who is a close friend as well, a person who has devoted his life to many important causes such as the global AIDS epidemic and children's causes; a stepdaughter, Louise Frank; stepsons, Daniel and Jonathan Frank; a sister, June Barrows; 10 grandchildren and 26 great-grandchildren.

His legacy goes beyond his family. His legacy will be realized by others for generations to come. Irving Harris's life will not be measured in the number of dollars he earned but the number of lives that he touched, not in the assets he accumulated but in the fact that he was such an asset to Chicago and to America. The pillars of American business know of his success, but Irving Harris was a pillar of strength and hope for the poor, and in that effort he made his life a model for us all.

It is my good fortune in this business to meet many people and to meet many wonderful people. I count on one hand the most amazing people I have ever met, and Irving Harris will be in that number.

I will miss Irving Harris, but I am grateful to have known him and to be

inspired by his lifetime of caring and hope.

## OFFICE OF COMPLIANCE NOTICE

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the RECORD today pursuant to section 304(b)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)(1)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE

Implementing Certain Substantive Rights and Protections of the Fair Labor Standards Act of 1938, as Required by Section 203 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1313.

NOTICE OF PROPOSED RULEMAKING

Background: The purpose of this Notice is to initiate the process for replacing existing overtime pay eligibility regulations with new regulations which will substantially mirror the new overtime exemption regulations recently promulgated by the Secretary of Labor.

Do FLSA overtime pay requirements apply via the CAA to Legislative Branch employing offices? Yes. One of the regulatory statutes incorporated in part through the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1301 et seq., is the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq. Section 203(a)(1) of the CAA states: ''[t]he rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the [FLSA] . . . (29 U.S.C. 206(a)(1), 207, 212(c)) shall apply to covered employees.'' Section 7 of the FLSA, 29 U.S.C. 207, includes the requirements regarding the payment of time and one half overtime pay to employees.

Are there existing overtime exemption regulations already in force under the CAA? Yes. In 1996, the Board of Directors of the Office of Compliance promulgated the existing CAA overtime exemption regulations based on the ''old'' 29 CFR Part 541 regulations which were in force until August 23, 2004. These regulations were adopted pursuant to the CAA section 304 procedure outlined herein below. Those regulations are found at Parts H541 (applicable to the House of Representatives), S541 (applicable to the Senate), and C541 (applicable to the other employing offices covered by section 203 of the CAA) of the FLSA Regulations of the Office of Compliance. These regulations remain in force until replaced by new regulations. Office of Compliance regulations can be accessed via our web site: www.compliance.gov.

Why is this Notice being issued? This Notice of Proposed Rulemaking is occasioned by the recent promulgation of new overtime exemption regulations by the Secretary of Labor at Vol. 69 of the Federal Register, No. 79, at pp. 22122 et seq., on August 23, 2004. The new regulations of the Secretary of Labor are set out at 29 U.S.C. Part 541, and replace the regulations which had been in effect prior to August 23, 2004. The Secretary of Labor's regulations do not apply to employing offices and employees covered by the CAA.

Why are there separate sets of existing FLSA regulations for the House of Representatives, the Senate, and the other employing offices covered by the CAA? Section 304(a)(2)(B) of the CAA, 2 U.S.C. 1384(a)(2)(B), requires that the substantive rules of the Board of Directors of the Office of Compliance ''shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—(i) the Senate and employees of the Senate; (ii) the House of Representatives and employees of the House of Representatives; and (iii) the other covered employees and employing offices.'' In 1996, the House of Representatives (H. Res. 400) and the Senate (S. Res. 242) each adopted by resolution the FLSA regulations applicable to each body. The Senate and House of Representatives adopted by concurrent resolution (S. Con. Res. 51) the regulations applicable to other employing offices and employees.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices? No. While there are some differences in other parts of the existing FLSA regulations applicable to the Senate, the House of Representatives, and the other employing offices (chiefly related to the mandate at section 203(c)(3) of the CAA, 2 U.S.C. 1313(c)(3), regarding ''covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate . . .''), the Board of Directors has identified no ''good cause'' for varying the text of these regulations. Therefore, if the proposed part 541 regulations are adopted, the prefixes ''H'', ''S'', and ''C'' will be affixed to each of the sets of regulations for the House, for the Senate, and for the other employing offices, but the text of the part 541 regulations will be identical.

How are substantive regulations proposed and approved under the CAA? Section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), requires that the Board of Directors propose substantive regulations implementing the FLSA overtime requirements which are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulation would be more effective for the implementation of the rights and protections under this section.'' Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that: (1) the Board of Directors adopt proposed substantive regulations and publish a general notice of proposed rulemaking in the Congressional Record; (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the Congressional Record; (4) committee referral and action on the proposed regulations by resolution in each House, concurrent resolution, or by joint resolution; and (5) final publication of the approved regulations in the Congressional Record, with an effective date prescribed in the final publication. For more detail, please reference the text of 2 U.S.C. 1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above.

How does the Board of Directors recommend that Congress approve these proposed regulations? Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to ''include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.'' The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: the House of Representatives adopted the ''H'' version of the regulations by resolution; the Senate adopted the ''S'' version of the regulations by resolution; and the House and Senate adopted the ''C'' version of the regulations applied to the other employing offices by a concurrent resolution.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the House of Representatives, and the Deputy Executive Director for the Senate? Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations is also recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

How are the Secretary of Labor's new overtime exemption regulations different than the old Secretary of Labor regulations at 29 CFR Part 541? The Secretary of Labor has substantially rewritten Part 541. Much of the regulatory framework for determining whether a particular employee should or should not receive overtime pay at time and one-half of that employees's regular rate of pay has been restructured under the new Part 541. For the Secretary of Labor's explanation of the substance of the changes, see the Department of Labor's discussion of the new regulations found at: www.dol.gov/fairpay/.

How similar are the proposed CAA regulations with the new Secretary of Labor regulations? Except for certain required changes, which are shown in the accompanying proposed regulations, the Board of Directors has repeated the text of the regulations at 29 CFR Part 541. ''Good cause'' for modification of the existing regulations of the Secretary of Labor, as required by section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), consists of those changes needed to reflect the authority of the CAA as the enabling statute for these regulations, the requirement at section 225(d)(3) of the CAA, 2 U.S.C. 1361(d)(3), that the CAA ''shall not be construed to authorize enforcement by the executive branch of this Act. . . .''. If there is any additional good cause for a particular proposed variation from the Secretary of Labor's regulations, it is set out adjacent to that provision of the proposed regulation.

Are these proposed CAA regulations available to persons with disabilities in an alternate format? This Notice of Adoption of Amendments to the Procedural Rules is available on the Office of Compliance web site, www.compliance.gov which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9225; TDD: 202–426–1912; FAX: 202–426–1913.

30-DAY COMMENT PERIOD REGARDING THE PROPOSED REGULATIONS

How can I submit comments regarding the proposed regulations? Comments regarding the proposed new overtime exemption regulations of the Office of Compliance set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.go) this

NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to: Bill Thompson, Executive Director, or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202–724–9250 (voice) or 202–426–1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA–200, Washington, D.C. 20540–1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202–426–1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments must provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540–1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

HOW TO READ THE PROPOSED AMENDMENTS

The text of the proposed amendments reproduces the text of the regulations promulgated on August 23, 2004 by the Secretary of Labor at 29 CFR Part 541, and shows changes proposed for the CAA version of these same regulations. Changes proposed by the Board of Directors of the Office of Compliance are shown as follows: *[[deletions within italicized brackets]]*, ***and added text in italicized bold***. Therefore, if these regulations are approved as proposed, *[[bracketed text will disappear from the regulations]]*, ***and added text will remain***. If these regulations are approved for the House of Representatives by resolution of the House, they will be promulgated with the prefix ''H'' appearing before each regulations section number. If these regulations are approved for the Senate by resolution of the Senate, they will be promulgated with the prefix ''S'' appearing before each regulations section number. If these regulations are approved for the other employing offices by joint or concurrent resolution of the House of Representatives and the Senate, they will be promulgated with the prefix ''C'' appearing before each regulations section number.

PROPOSED OVERTIME EXEMPTION REGULATIONS

PART 541—DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

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Authority: 29 U.S.C. 213; *[[*Public Law 101–583, 104 Stat. 2871*]]*; ***2 U.S.C. 203; 2 U.S.C. 304.*** *[[*Reorganization Plan No. 6 of 1950 (3 CFR 1945–53 Comp. p. 1004); Secretary's Order No. 4–2001 (66 FR 29656).*]]*

Subpart A—General Regulations

Sec. 541.0 Introductory statement. (a) Section 13(a)(1) of the Fair Labor Standards Act (Act), as amended, ***and as applied pursuant to section 203 of the Congressional Accountability Act of 1995, 2 U.S.C. 1313,*** provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee, *[[*as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act.*]]* Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees. (b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions. (c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the Act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are also administered and enforced by the *[[*United States Equal Employment Opportunity Commission*]]* ***Office of Compliance.***

Sec. 541.1 Terms used in regulations. Act means the Fair Labor Standards Act of 1938, as amended. *[[*Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor Standards Act.*]]* ***CAA means Congressional Accountability Act of 1995, as amended. Office means the Office of Compliance. Employee means a "covered employee" as defined in section 101(3) through (8) of the CAA, 2 U.S.C. 1301(3) through (8), but not an "intern" as defined in section 203(a)(2) of the CAA, 2 U.S.C. 1313(a)(2). Employer, company, business, or enterprise each mean an "employing office" as defined in section 101(9) of the CAA, 2 U.S.C. 1301(9).***

Sec. 541.2 Job titles insufficient. A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

Sec. 541.3 Scope of the section 13(a)(1) exemptions.

(a) The section 13(a)(1) exemptions and the regulations in this part do not apply to manual laborers or other ''blue collar'' workers who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt ''blue collar'' employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees such as medical doctors, architects and archeologists. Thus, for example, non-management production-line employees and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the Fair Labor Standards Act, and are not exempt under the regulations in this part no matter how highly paid they might be.

(b)(1) The section 13(a)(1) exemptions and the regulations in this part also do not apply

to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.

(2) Such employees do not qualify as exempt executive employees because their primary duty is not management of the enterprise in which the employee is employed or a customarily recognized department or subdivision thereof as required under Sec. 541.100. Thus, for example, a police officer or fire fighter whose primary duty is to investigate crimes or fight fires is not exempt under section 13(a)(1) of the Act merely because the police officer or fire fighter also directs the work of other employees in the conduct of an investigation or fighting a fire.

(3) Such employees do not qualify as exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer or the employer's customers as required under Sec. 541.200.

(4) Such employees do not qualify as exempt professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as required under Sec. 541.300. Although some police officers, fire fighters, paramedics, emergency medical technicians and similar employees have college degrees, a specialized academic degree is not a standard prerequisite for employment in such occupations.

Sec. 541.4 Other laws and collective bargaining agreements. The Fair Labor Standards Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the Act. Similarly, employers, on their own initiative or under a collective bargaining agreement with a labor union, are not precluded by the Act from providing a wage higher than the statutory minimum, a shorter workweek than the statutory maximum, or a higher overtime premium (double time, for example) than provided by the Act. While collective bargaining agreements cannot waive or reduce the Act's protections, nothing in the Act or the regulations in this part relieves employers from their contractual obligations under collective bargaining agreements.

SUBPART B—EXECUTIVE EMPLOYEES

Sec. 541.100 General rule for executive employees.

(a) The term ''employee employed in a bona fide executive capacity'' in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (3) Who customarily and regularly directs the work of two or more other employees; and (4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

(b) The phrase ''salary basis'' is defined at Sec. 541.602; ''board, lodging or other facilities'' is defined at Sec. 541.606; ''primary duty'' is defined at Sec. 541.700; and ''customarily and regularly'' is defined at Sec. 541.701.

Sec. 541.101 Business owner. The term ''employee employed in a bona fide executive capacity'' in section 13(a)(1) of the Act also includes any employee who owns at least a bona fide 20-percent percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The term ''management'' is defined in Sec. 541.102. The requirements of Subpart G (salary requirements) of this part do not apply to the business owners described in this section.

Sec. 541.102 Management. Generally, ''management'' includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

Sec. 541.103 Department or subdivision. (a) The phrase ''a customarily recognized department or subdivision'' is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer's human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function. (b) When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the enterprise. (c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization. (d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

Sec. 541.104 Two or more other employees. (a) To qualify as an exempt executive under Sec. 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase ''two or more other employees'' means two full-time employees or their equivalent. One full-time and two half-time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent. (b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers. (c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement. (d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

Sec. 541.105 Particular weight. To determine whether an employee's suggestions and recommendations are given ''particular weight,'' factors to be considered include, but are not limited to, whether it is part of the employee's job duties to make such suggestions and recommendations; the frequency with which such suggestions and recommendations are made or requested; and the frequency with which the employee's suggestions and recommendations are relied upon. Generally, an executive's suggestions and recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include an occasional suggestion with regard to the change in status of a co-worker. An employee's suggestions and recommendations may still be deemed to have ''particular weight'' even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.

Sec. 541.106 Concurrent duties.

(a) Concurrent performance of exempt and nonexempt work does not disqualify an employee from the executive exemption if the requirements of Sec. 541.100 are otherwise met. Whether an employee meets the requirements of Sec. 541.100 when the employee performs concurrent duties is determined on a case-by-case basis and based on the factors set forth in Sec. 541.700. Generally, exempt executives make the decision regarding when to perform nonexempt duties and remain responsible for the success or failure of business operations under their management while performing the nonexempt work. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. An employee whose primary duty is ordinary production work or routine, recurrent or repetitive tasks cannot qualify for exemption as an executive.

(b) For example, an assistant manager in a retail establishment may perform work such as serving customers, cooking food, stocking shelves and cleaning the establishment, but performance of such nonexempt work does not preclude the exemption if the assistant manager's primary duty is management. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. An exempt employee can also simultaneously direct the work of other employees and stock shelves.

(c) In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because the nonexempt production line employee occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is unavailable. Similarly, an employee whose primary duty is to work as an electrician is not an exempt executive even if the employee also directs the work of other employees on the job site, orders parts and materials for the job, and handles requests from the prime contractor.

Subpart C—Administrative Employees

Sec. 541.200 General rule for administrative employees.

(a) The term ''employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and (3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

(b) The term ''salary basis'' is defined at Sec. 541.602; ''fee basis'' is defined at Sec. 541.605; ''board, lodging or other facilities'' is defined at Sec. 541.606; and ''primary duty'' is defined at Sec. 541.700.

Sec. 541.201 Directly related to management or general business operations.

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. The phrase ''directly related to the management or general business operations'' refers to the type of work performed by the employee. To meet this requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) Work directly related to management or general business operations includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations, government relations; computer network, internet and database administration; legal and regulatory compliance; and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption.

(c) An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the employer's customers. Thus, for example, employees acting as advisers or consultants to their employer's clients or customers (as tax experts or financial consultants, for example) may be exempt.

Sec. 541.202 Discretion and independent judgment.

(a) To qualify for the administrative exemption, an employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term ''matters of significance'' refers to the level of importance or consequence of the work performed.

(b) The phrase ''discretion and independent judgment'' must be applied in the light of all the facts involved in the particular employment situation in which the question arises. Factors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the company on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term business objectives; whether the employee investigates and resolves matters of significance on behalf of management; and whether the employee represents the company in handling complaints, arbitrating disputes or resolving grievances.

(c) The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. Thus, the term ''discretion and independent judgment'' does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. For example, the policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The management consultant who has made a study of the operations of a business and who has drawn a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

(d) An employer's volume of business may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance.

(e) The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. See also Sec. 541.704 regarding use of manuals. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. An employee who simply tabulates data is not exempt, even if labeled as a ''statistician.''

(f) An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.

Sec. 541.203 Administrative exemption examples.

(a) Insurance claims adjusters generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(b) Employees in the financial services industry generally meet the duties requirements for the administrative exemption if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption.

(c) An employee who leads a team of other employees assigned to complete major projects for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(d) An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.

(e) Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who ''screen'' applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption. Such personnel clerks typically will reject all applicants who do not meet minimum standards for the particular job or for employment by the company. The minimum standards are usually set by the exempt human resources manager or other company officials, and the decision to hire from the group of qualified applicants who do meet the minimum standards is similarly made by the exempt human resources manager or other company officials. Thus, when the interviewing and screening functions are performed by the human resources manager or personnel manager who makes the hiring decision or makes recommendations for hiring from the pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(f) Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.

(g) Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well-established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

(h) Employees usually called examiners or graders, such as employees that grade lumber, generally do not meet the duties requirements for the administrative exemption. Such employees usually perform work involving the comparison of products with established standards which are frequently catalogued. Often, after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for a manual of standards does not convert the character of the work performed to exempt work requiring the exercise of discretion and independent judgment.

(i) Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.

(j) Public sector inspectors or investigators of various types, such as fire prevention or safety, building or construction, health or sanitation, environmental or soils specialists and similar employees, generally do not meet the duties requirements for the administrative exemption because their work typically does not involve work directly related to the management or general business operations of the employer. Such employees also do not qualify for the administrative exemption because their work involves the use of skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedure to follow, or determining whether prescribed standards or criteria are met.

Sec. 541.204 Educational establishments.

(a) The term ''employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act also includes employees: (1) Compensated for services on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government) exclusive of board, lodging or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and (2) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term ''educational establishment'' means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term ''other educational establishment'' includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Factors relevant in determining whether post-secondary career programs are educational institutions include whether the school is licensed by a state agency responsible for the state's educational system or accredited by a nationally recognized accrediting organization for career schools. Also, for purposes of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase ''performing administrative functions directly related to academic instruction or training'' means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under Sec. 541.200 or under other sections of this part, provided the requirements for such exemptions are met.

Subpart D—Professional Employees

Sec. 541.300 General rule for professional employees.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and (2) Whose primary duty is the performance of work: (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term ''salary basis'' is defined at Sec. 541.602; ''fee basis'' is defined at Sec. 541.605; ''board, lodging or other facilities'' is defined at Sec. 541.606; and ''primary duty'' is defined at Sec. 541.700.

Sec. 541.301 Learned professionals.

(a) To qualify for the learned professional exemption, an employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. This primary duty test includes three elements:

(1) The employee must perform work requiring advanced knowledge;

(2) The advanced knowledge must be in a field of science or learning; and (3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

(b) The phrase ''work requiring advanced knowledge'' means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

(c) The phrase ''field of science or learning'' includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other similar occupations that have a recognized professional status as distinguished from the mechanical arts or skilled trades where in some instances the knowledge is of a fairly advanced type, but is not in a field of science or learning.

(d) The phrase ''customarily acquired by a prolonged course of specialized intellectual instruction'' restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word ''customarily''

means that the exemption is also available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. Thus, for example, the learned professional exemption is available to the occasional lawyer who has not gone to law school, or the occasional chemist who is not the possessor of a degree in chemistry. However, the learned professional exemption is not available for occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.

(e)(1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association generally meet the duties requirements for the learned professional exemption. (2) Nurses. Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption. Licensed practical nurses and other similar health care employees, however, generally do not qualify as exempt learned professionals because possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations. (3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association generally meet the duties requirements for the learned professional exemption. (4) Physician assistants. Physician assistants who have successfully completed four academic years of pre-professional and professional study, including graduation from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, and who are certified by the National Commission on Certification of Physician Assistants generally meet the duties requirements for the learned professional exemption. (5) Accountants. Certified public accountants generally meet the duties requirements for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks, bookkeepers and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals. (6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a four-year specialized academic degree in a culinary arts program, generally meet the duties requirements for the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical or physical work. (7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption. (8) Athletic trainers. Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association Board of Certification generally meet the duties requirements for the learned professional exemption. (9) Funeral directors or embalmers. Licensed funeral directors and embalmers who are licensed by and working in a state that requires successful completion of four academic years of pre-professional and professional study, including graduation from a college of mortuary science accredited by the American Board of Funeral Service Education, generally meet the duties requirements for the learned professional exemption.

(f) The areas in which the professional exemption may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When an advanced specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession. Accrediting and certifying organizations similar to those listed in paragraphs (e)(1), (e)(3), (e)(4), (e)(8) and (e)(9) of this section also may be created in the future. Such organizations may develop similar specialized curriculums and certification programs which, if a standard requirement for a particular occupation, may indicate that the occupation has acquired the characteristics of a learned profession.

Sec. 541.302 Creative professionals.

(a) To qualify for the creative professional exemption, an employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual or intellectual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be ''in a recognized field of artistic or creative endeavor.'' This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of ''invention, imagination, originality or talent'' distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The duties of employees vary widely, and exemption as a creative professional depends on the extent of the invention, imagination, originality or talent exercised by the employee. Determination of exempt creative professional status, therefore, must be made on a case-by-case basis. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen-play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an ''animator'' of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may satisfy the duties requirements for the creative professional exemption if their primary duty is work requiring invention, imagination, originality or talent, as opposed to work which depends primarily on intelligence, diligence and accuracy. Employees of newspapers, magazines, television and other media are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product. Thus, for example, newspaper reporters who merely rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals. Reporters also do not qualify as exempt creative professionals if their work product is subject to substantial control by the employer. However, journalists may qualify as exempt creative professionals if their primary duty is performing on the air in radio, television or other electronic media; conducting investigative interviews; analyzing or interpreting public events; writing editorials, opinion columns or other commentary; or acting as a narrator or commentator.

Sec. 541.303 Teachers.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term ''educational establishment'' is defined in Sec. 541.204(b).

(b) Exempt teachers include, but are not limited to: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi- skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in

requiring a certificate for employment as an elementary or secondary school teacher, and a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of Sec. 541.300 and Subpart G (salary requirements) of this part do not apply to the teaching professionals described in this section.

Sec. 541.304 Practice of law or medicine.

(a) The term ''employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also shall mean: (1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and (2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term ''physicians'' includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of Sec. 541.300 and subpart G (salary requirements) of this part do not apply to the employees described in this section.

Subpart E—Computer Employees

Sec. 541.400 General rule for computer employees.

(a) Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

(b) The section 13(a)(1) exemption applies to any computer employee compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, and the section 13(a)(17) exemption applies to any computer employee compensated on an hourly basis at a rate not less than $27.63 an hour. In addition, under either section 13(a)(1) or section 13(a)(17) of the Act, the exemptions apply only to computer employees whose primary duty consists of: (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; (3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

(c) The term ''salary basis'' is defined at Sec. 541.602; ''fee basis'' is defined at Sec. 541.605; ''board, lodging or other facilities'' is defined at Sec. 541.606; and ''primary duty'' is defined at Sec. 541.700.

Sec. 541.401 Computer manufacture and repair. The exemption for employees in computer occupations does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in Sec. 541.400(b), are also not exempt computer professionals.

Sec. 541.402 Executive and administrative computer employees. Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under subpart B or subpart C of this part. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

Subpart F—Outside Sales Employees

Sec. 541.500 General rule for outside sales employees. (a) The term ''employee employed in the capacity of outside salesman'' in section 13(a)(1) of the Act shall mean any employee: (1) Whose primary duty is: (i) making sales within the meaning of section 3(k) of the Act, or (ii) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and (2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.

(b) The term ''primary duty'' is defined at Sec. 541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee's sales efforts also shall be regarded as exempt work including, for example, writing sales reports, updating or revising the employee's sales or display catalogue, planning itineraries and attending sales conferences.

(c) The requirements of subpart G (salary requirements) of this part do not apply to the outside sales employees described in this section.

Sec. 541.501 Making sales or obtaining orders.

(a) Section 541.500 requires that the employee be engaged in: (1) Making sales within the meaning of section 3(k) of the Act, or (2) Obtaining orders or contracts for services or for the use of facilities.

(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that ''sale'' or ''sell'' includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(c) Exempt outside sales work includes not only the sales of commodities, but also ''obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer.'' Obtaining orders for ''the use of facilities'' includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.

(d) The word ''services'' extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

Sec. 541.502 Away from employer's place of business. An outside sales employee must be customarily and regularly engaged ''away from the employer's place or places of business.'' The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business. Similarly, an outside sales employee does not lose the exemption by displaying the employer's products at a trade show. If selling actually occurs, rather than just sales promotion, trade shows of short duration (i.e., one or two weeks) should not be considered as the employer's place of business.

Sec. 541.503 Promotion work.

(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work. An employee who does not satisfy the requirements of this subpart may still qualify as an exempt employee under other subparts of this rule.

(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt outside sales work.

(c) Another example is a company representative who visits chain stores, arranges

the merchandise on shelves, replenishes stock by replacing old with new merchandise, sets up displays and consults with the store manager when inventory runs low, but does not obtain a commitment for additional purchases. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work is not exempt outside sales work.

Sec. 541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. In determining the primary duty of drivers who sell, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including loading, driving or delivering products, shall be regarded as exempt outside sales work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including, but not limited to: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include: (1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold. (2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases. (3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods. (4) A driver who calls on established customers along the route and persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include: (1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations.

(2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery. (3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.

Subpart G—Salary Requirements

Sec. 541.600 Amount of salary required.

(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in Sec. 541.605.

(b) The $455 a week may be translated into equivalent amounts for periods longer than one week. The requirement will be met if the employee is compensated biweekly on a salary basis of $910, semimonthly on a salary basis of $985.83, or monthly on a salary basis of $1,971.66. However, the shortest period of payment that will meet this compensation requirement is one week.

(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in Sec. 541. 204(a)(1).

(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than $27.63 an hour, as provided in Sec. 541. 400(b).

(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see Sec. 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see Sec. 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see Sec. 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

Sec. 541.601 Highly compensated employees.

(a) An employee with total annual compensation of at least $100,000 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part.

(b)(1) ''Total annual compensation'' must include at least $455 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in Sec. 541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits. (2) If an employee's total annual compensation does not total at least the minimum amount established in paragraph (a) of this section by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, an employee may earn $80,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn $20,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns $10,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least $10,000 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C or D of this part. (3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment. (4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under Sec. 541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non-management production-line workers and non management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

Sec. 541.602 Salary basis.

(a) General rule. An employee will be considered to be paid on a ''salary basis'' within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from

the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Exceptions. The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions: (1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence. (2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law. (3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption. (4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines. (5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence. (6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed. (7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

Sec. 541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in Sec. 541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best evidence of a clearly communicated policy is a written policy that was distributed to employees prior to the improper pay deductions by, for example, providing a copy of the policy to employees at the time of hire, publishing the policy in an employee handbook or publishing the policy on the employer's Intranet.

(e) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

Sec. 541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least $455 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least $455 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least $455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

(b) An exempt employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least $500 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid $150 per shift without violating the salary basis requirement. The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary of $650 per week who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

Sec. 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather

than on a salary basis. An employee will be considered to be paid on a ''fee basis'' within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments resemble piecework payments with the important distinction that generally a ''fee'' is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least $455 per week if the employee worked 40 hours. Thus, an artist paid $250 for a picture that took 20 hours to complete meets the minimum salary requirement for exemption since earnings at this rate would yield the artist $500 if 40 hours were worked.

Sec. 541.606 Board, lodging or other facilities.

(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in Sec. 541.600, ''exclusive of board, lodging or other facilities.'' The phrase ''exclusive of board, lodging or other facilities'' means ''free and clear'' or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.

(b) Regulations defining what constitutes ''board, lodging, or other facilities'' are contained in 29 CFR part 531. As described in 29 CFR 531.32, the term ''other facilities'' refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work. *[[*Good cause for the inclusion of subsection (b): The regulations referenced in this paragraph at 29 CFR 531.29 are not substantive regulations, but are ''interpretive'' regulations which were not incorporated in Part 531 of the CAA regulations adopted in 1996. However, the Board of Directors has determined that, since these particular interpretive regulations are incorporated by reference in the new substantive regulations, employing offices and employees may reference these particular interpretive regulations as part of the new substantive regulations as proposed here.*]]*

Subpart H—Definitions and Miscellaneous Provisions

Sec. 541.700 Primary duty.

(a) To qualify for exemption under this part, an employee's ''primary duty'' must be the performance of exempt work. The term ''primary duty'' means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Thus, employees who spend more than 50 percent of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing in this section requires that exempt employees spend more than 50 percent of their time performing exempt work. Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.

(c) Thus, for example, assistant managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget and authorizing payment of bills may have management as their primary duty even if the assistant managers spend more than 50 percent of the time performing nonexempt work such as running the cash register. However, if such assistant managers are closely supervised and earn little more than the nonexempt employees, the assistant managers generally would not satisfy the primary duty requirement.

Sec. 541.701 Customarily and regularly. The phrase ''customarily and regularly'' means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed ''customarily and regularly'' includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

Sec. 541.702 Exempt and nonexempt work. The term ''exempt work'' means all work described in Sec. 541.100, 541.101, 541.200, 541.300, 541.301, 541.302, 541.303, 541.304, 541.400 and 541.500, and the activities directly and closely related to such work. All other work is considered ''nonexempt.''

Sec. 541.703 Directly and closely related.

(a) Work that is ''directly and closely related'' to the performance of exempt work is also considered exempt work. The phrase ''directly and closely related'' means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, ''directly and closely related'' work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's exempt work cannot be performed properly. Work ''directly and closely related'' to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not ''directly and closely related'' if the work is remotely related or completely unrelated to exempt duties.

(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work: (1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees. (2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties. (3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector. (4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non-supervisors may perform such work. However, particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work. (5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions. (6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption. (7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under Sec. 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies. (8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common-carrier and other transportation facilities, negotiating with carriers for adjustments for damages to

merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work. (9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants. (10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

Sec. 541.704 Use of manuals. The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

Sec. 541.705 Trainees. The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

Sec. 541.706 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An ''emergency'' does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work: (1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive. (2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work. (3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly. (4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

Sec. 541.707 Occasional tasks. Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

Sec. 541.708 Combination exemptions. Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

Sec. 541.709 Motion picture producing industry. The requirement that the employee be paid ''on a salary basis'' does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $695 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C or D of this part, and who is employed at a base rate of at least $695 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least $695 if 6 days were worked; or (b) The employee is in a job category having a weekly base rate of at least $695 and the daily base rate is at least one-sixth of such weekly base rate.

Sec. 541.710 Employees of Public Agencies. (a) An employee of a public agency who otherwise meets the salary basis requirements of section 541.602 shall not be disqualified from exemption under sections 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because: (1) Permission for its use has not been sought or has been sought or denied; (2) Accrued leave has been exhausted; (3) The employee chooses to use leave without pay. (b) Deductions from the pay of an employee of a public agency for absences due to a budget required furlough shall not disqualify the employee from being paid on a salary basis except on the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

## 40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. McCAIN. Mr. President, throughout our country's history there have been many debates in the Congress over the use, conservation, and protection of our natural resources. These debates have resulted in landmark policies, such as the Louisiana Purchase, the Homestead Act, and the establishment of the world's first national park, Yellowstone, in 1872.

Natural resource and environmental issues are inherently complex and often controversial, for they involve tradeoffs in which many diverse interests have a stake. There is one interest that cannot speak for itself and relies upon the vision of others; the interest of future generations. Teddy Roosevelt said it best, it seems to me, in his 1916 book, A Book-Lover's Holidays in the Open, where he castigates those ''short-sighted men who in their greed and selfishness will, if permitted, rob our country of half its charm by their reckless extermination of all useful and beautiful wild things''. He goes on to say, ''Our duty to the whole, including the unborn generations, bids us restrain an unprincipled present-day minority from wasting the heritage of these unborn generations. The movement for the conservation of wild life and the larger movement for the conservation of all our natural resources are essentially democratic in spirit, purpose, and method.''

It is in this spirit of our moral obligation to the future—to those who, in Teddy Roosevelt's memorable phrase, are ''within the womb of time''—that I wish to salute the 40th anniversary of the Wilderness Act of 1964. I am pleased to lend my support to this bipartisan resolution honoring the milestone legislation preserving our Nation's rare and spectacular wild places.

Arizona has the good fortune to have numerous preserved wilderness areas, thanks to this law. In fact, more than 4,500,000 acres have been preserved in 90 wilderness areas. These range from the Cabeza Prieta Wilderness of more than 800,000 acres, to the 2,040 acre Baboquivari Peak Wilderness, an extraordinary area designated in 1990. From our desert expanses to the heights of 12,643-foot Humphrey's Peak, the highest point in Arizona, protected within the Kachina Peaks Wilderness, Arizona is not only one of America's fastest-growing states, but also a state in which we preserve and treasure our wilderness heritage.

In 1936, the great forester and wilderness champion, Bob Marshall, spoke of the luxury—a privilege—we Americans have. He commented that Americans can enjoy ''a twofold civilization—the mechanized, comfortable, easy civilization of twentieth-century modernity, and the peaceful timelessness of the wilderness where vast forests germinate and flourish and die and rot and grow again without any relationship to the ambitions and interferences of man.''

In spite of the environmental challenges that face our country and the world today, I am very grateful for the vision of past leaders that enacted this law to ensure that those who inhabit our nation many generations into the future will be able to experience wilderness in their lives, as we do today. As we celebrate the protection of existing and additional wilderness areas under this historic law, we follow our most noble and nonpartisan traditions of national resource conservation.

Mr. President, I ask unanimous consent to have printed in the RECORD the following statement of Stewart Udall, one of our Nation's conservation leaders and the Secretary of the Interior in the Kennedy and Johnson administrations, presented at an event on September 19, 2004, commemorating the 40th anniversary of the Wilderness Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY FORMER INTERIOR SECRETARY STEWART UDALL—WILDERNESS ACT COMMEMORATIVE DINNER, WASHINGTON, DC, SEPTEMBER 19, 2004

I am honored and delighted to be here tonight with John Dingell and Gaylord Nelson and Bob Byrd. I was running for Congress 50 years ago right now, and I came in the door with John Dingell and Bob Byrd had been there two years, and they considered him a ''hick,''—he played the fiddle, he loved the folk music of his people and now he is the conscience of the Senate.

If you want to know why I say that, you will buy his book, ''Losing America,'' and find out what his message is. John Dingell, you were given too little credit tonight. The National Environmental Policy Act would probably not have been passed if it had not been for John Dingell. What you don't know is Wayne Aspinell thought it was a crazy idea, and John Dingell said ''if he doesn't want it, then I will pick it up.'' And he carried the mail through the House. So I want to say something—I'm on a ''lecture tour'' this evening. There was something about that time, and John Dingell and I discussed it—the 60s into the 70s was called a golden age of sorts. One of the things that comes to my mind as I go back there is the way you saw young Congressmen and Senators who were pretty raw in the beginning, but they had open minds and they grew and they developed new convictions and they developed new horizons. One example was John and Robert Kennedy—changing before your eyes. And John Dingell and Bob Byrd are examples of this, and my brother—yes, my brother. It did not take him long to enlarge his mind and encompass it. And that is a great gift—to be open minded and have the capacity to grow. It's a very great gift. And can we see members of congress now, too many of them that come in with fixed ideologies and fixed views, and they will stay for 10 or 25 years, and when they leave they have the very same views. They haven't changed a damn thing. It's pathetic.

So now a lot of it's been covered, and I only have time to hit a few high notes because I promised Mike Matz (executive director of the Campaign for America's Wilderness) that I would give out of my faulty memory some of the highlights of the Wilderness bill. And this is an extraordinary story. The wilderness idea—it originated here in this country. The national park idea originated in this country —the idea of setting aside areas. And Bob Marshall, Aldo Leopold, and a little group came up with this, and it was thought to be a far-out and crazy idea, and it culminated with the introduction of the wilderness bill.

One person left out was Humphrey, John Saylor—what a great man he was. Thomas Kuchel, Republican from California was one. And he shortly became the deputy leader—the whip to Everett Dirksen, and the reason we got an overwhelming bipartisan vote, in the Senate, was Tom Kuchel. Tom Kuchel, so give him credit for it. What a great, great man he was. To show you the spirit of bipartisanship, we worked on Point Reyes together. When I went to his office, he'd say, ''Hi Stewie, what do you want today?'' And that's the way it was in that period. But the Wilderness Bill—Howard Zahniser—Mr. Zahniser—the man was a saint. He rewrote and touched up that bill 60 times over a period of 8 years. Every time Aspinall raised a new argument, he'd work on a little language and tried to offset it. He was truly a saintly person—a poet, a lover of Thoreau, a wonderful man.

But when the wilderness bill got off the ground, and too much we, all of us, when it's all over, like to take credit. I have been given more than my share tonight. Two persons I would single out are President John F. Kennedy and Senator Clinton Anderson of New Mexico. Clint Anderson had been as a young insurance man, a personal friend of Aldo Leopold in Albuquerque, and when he became chairman of the Committee after the 1960 election, and Kennedy was president. I didn't tell Kennedy what to do. Clint Anderson went to the White House and said, ''Kennedy didn't campaign on wilderness, I can't find anything in the campaign.'' He said put in your message to Congress on conservation—Presidents used to send up such messages, if they had a conservation program—a call for the enactment of a wilderness bill along the lines of Senate bill five—his bill. Kennedy put it in, and that electrified the country—to have a call like that. And in July the bill went to the floor of the Senate, and I'll tell you I was startled. I was startled, Senator Byrd. The vote was 78 to 12, and people all over the country—the conservationists—suddenly began to arouse and see how much power they have.

We give too much credit in my view—I was a Congressman—to members of Congress. Lyndon Johnson was great at that—''the Congress, they did it''. They enact laws, yes. But there was an upsurge, an uplifting of people. Conservation had been put on the shelf after Pearl Harbor and then there was a Cold War and Kennedy issued a call for national seashores and we got started on 14 of them. Some of them passed later on, but I have to say what made it all possible was a bipartisanship and affection between the members of the old generation—my generation. We were depression kids, we fought the war, we believed in mutual respect. That was what made it so wonderful in those days. And that spirit carried forward. Richard Nixon was a damn good conservation president.

I like metaphors, and I have likened what happened—we just saw the Olympics—to a relay race, because the work and conservation in those days was never finished. There was a pipeline. Heavens, it took Gaylord Nelson—because he wanted the people to accept it—12 years to do the Apostle Islands National Seashore. It took Bill Hart 10 years to do Sleeping Bear Dunes in Michigan. And this meant that when we came, and a different party won the White House, you carried the baton. I am not sure Nixon understood in the beginning, but they took it and they ran with it. Russell Train, Nat Reed—those wonderful people who put that ad in the newspaper last month that said ''Come back to the mainstream, come back to the main stream.'' And Gerald Ford carried it on, and Jimmy Carter. And then—no names mentioned—but a Secretary of the Interior when 1981 began, refused. In fact, he said—and I never understood where he was coming from—we've been going in the wrong direction for the last 20 years, so he wouldn't take the baton. And it has been on the floor ever since.

The bipartisanship by these five presidents was ended, and I want to say because there is so much doublespeak these days—don't let a president or his people say because he signed a wilderness bill that he is for wilderness. Does he issue a call for more wilderness? That's the test. That's the test. The Land and Water Conservation Fund—oh I can take some credit on that, but I won't—too long. Do you know, 10 billion dollars in 1960 dollars, Senator Byrd, went into that program and half of it went to the states and they matched it, and almost 40 thousand projects—cities, counties, open space, playgrounds—boy, do we need playgrounds with this plague of obesity that is claiming this country. We ought to go back to that program.

Well that's enough, I guess, and you know how strongly I feel. The fight is not over, as everyone has said tonight. And we may have gaps and we have an ebb and flow. I'd like to believe, I am a troubled optimist, but there will be a flow again in terms of wilderness preservation. And I like to end, and my vision is gone so I have to memorize things. I can't use notes, I just blabber away. Congressman Aspinall—from Colorado—was an honorable man, as John Dingell and I have discussed. He was strong-headed, but an honorable man. Very stubborn and he could be dictatorial. He wouldn't even let his committee consider the bill—no hearings—no bill reported. John Saylor would say, ''Wayne, you cannot get away with this forever,'' and we tried to persuade him. Where was he? He said to me once, Stuart—I was one of his boys, I trained under him, he taught you a lot of things—and he said people that don't understand me, don't understand that my congressional district is a mining district. It had been a mining district. He was a great champion of the American Mining Congress. He regarded a wilderness bill as a lock up. That was the argument that Howard Zanhiser had to work against all the time. He said, ''Stuart, you may get a bill from out of my committee, but you might not recognize it.'' And so it came to a compromise. And he and Clinton Anderson were two old bulls that ended up hating and distrusting each other. And Anderson's bill had all of the elements, the framework, and the language about how you identified a wilderness bill and how you passed a wilderness bill. And Anderson put in 50 million acres of lands that the Forest Service largely had already identified. Aspinall cut it back to nine. And they made the compromise because Anderson had to give in if he wanted to get a wilderness bill. So it was cut way back. Aspinall thought it might be true today—but not in the next 20 or 30 years—that if every bill had to pass individually through the Senate and House, that Congressmen who held the views that he did, would not want a wilderness in their area because it was locking up very valuable resources. And so that is the way it played out. And the wilderness bill—the essential elements of the wilderness bill—were there when the bill was passed. And this was a great moment for the country. What happened was the citizens all over the country—in the West and the East, the Congressmen and the Senators got behind wilderness bills, and that is why we have the 110 million acres today.

I have to say one final thing about Mo Udall, my brother, and this is getting back, Senator Byrd, to your book because the whole democratic process as far as I can see, is gone in the House of Representatives. It's gone. We have another man that says no bill will go out of his committee unless it meets my personal standards. What kind of democracy is that? Mo Udall was committed to the idea—he wrote a book, it's been thrown away, ''The Job of A Congressman.'' A bill is introduced, you have hearings—everybody that wants to be heard can be heard—you have field hearings, you mark up a bill, the committees work their will—if it can survive the committee it goes to the floor of the House and the House works its will. That's democracy, and that's what he was committed to, and that is gone now. Things are tucked into appropriation bills now. A democracy has been watered down and disappeared, and that is one of the things Senator Byrd's book is about.

So let's bear that in mind, but don't give up. Don't give out—the fight goes on. I'm finally going to end, I'm sorry, I got carried away. The case for wilderness was made against the lock up argument by Clinton Anderson, who said ''wilderness is an anchor to windward.'' Knowing it is there, we can go about our business of managing our resources wisely and not be a people in despair, ransacking our public lands for the last barrel of oil, the last board of timber, the last blade of grass, the last tank of water. That was Clint Anderson's answer to the lock up argument.

Wallace Stenger, as usual, caught the spirit in that wonderful essay he wrote in 1960. He said, ''We need this wild country even if we do no more than go to the edge and look in. We need it as a symbol of our sanity as creatures as part of the geography of hope.'' And Ansel Adams, the great photographer said it in a different way, and I once said, ''Ansel, can I apply your statement to the Grand Canyon and Yosemite?'' ''Of course,'' he said Ansel was writing home after his first trip to New Mexico and he used these words: All is very beautiful and magical here. He is talking about the landscape. ''All is beautiful and magical here.'' A quality one cannot describe. He said, ''The sky and the land is so enormous and that the detail is so precise and exquisite,'' the eye of the photographer—''that wherever you are, there is a golden glow and everything is sideways under you and over you, and the clocks stopped long ago.''

Keep up the fight, and good night.

Mrs. FEINSTEIN. Mr. President, this month our Nation celebrates the 40th anniversary of the Wilderness Act. To commemorate the anniversary of this landmark legislation, I want to take a few moments to highlight the historic importance of this law, and remind us of some of the work remaining to be done.

When President Lyndon B. Johnson signed the Wilderness Act into law on September 3, 1964, it became our unambiguous national policy ''to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.''

The legislation empowered those of us in Congress, with the ultimate approval of the President, to designate Federal lands for protection as part of our national wilderness preservation system. It was a tremendous accomplishment, immediately placing some 1.2 million acres of wilderness in 13 areas on national forest lands throughout my home State of California under statutory protection. And it protected another 8 million acres of land in other States.

But that was only the start. Over the ensuing four decades, Californians have welcomed acts of Congress that have expanded most of those initial areas. Today, those original 13 wilderness areas have grown to 1.7 million acres of wilderness firmly protected by statute.

The Wilderness Act also required that numerous other areas of Federal land be studied, with local public hearings, leading to Presidential recommendations for additional wilderness areas. Congress has enacted those proposals in California, beginning with the great San Rafael Wilderness near Santa Barbara in 1969—the first area added to the national wilderness system after the Wilderness Act became law.

Another early study focused on the 50,000-acre Ventana Primitive Area in the mountains along the central California coast above Big Sur—an area the U.S. Forest Service preserved in the 1930s. The study led Congress to establish the 98,000-acre Ventana Wilderness in 1969, with the leadership, among others, of California Senator Thomas Kuchel.

Since that time we have revisited this area in four additional laws, most recently when we passed and President George W. Bush signed a law in late 2002 further expanding this wilderness. As a result, the Ventana Wilderness now covers 240,000 acres.

Beyond the original Wilderness Act study areas, our California delegation has listened carefully to the diverse voices of the people of California. Year after year, we receive proposals for wilderness protection that come to us from ordinary citizens and organizations in our State, most often working in close consultation with the Federal land managing agencies involved and our State government.

Many of these proposals have been enacted, particularly for lands administered by the U.S. Forest Service and the Bureau of Land Management. As a result of all this work, California now boasts 130 wilderness areas comprising 14 million acres.

These California wilderness areas offer a diverse spectrum of landscapes and ecosystems, recreational opportunities and scenic vistas, from the high peaks and forested valleys of the Sierra, to the extraordinarily wild deserts that Senator Alan Cranston and I fought to protect in the California Desert Protection Act of 1994—one of my proudest achievements for the people of California.

In celebrating the 40th anniversary of the Wilderness Act, I particularly stress that the work of preserving California's wilderness heritage has always been a bipartisan endeavor. In our State, we enjoy wilderness areas found in the congressional districts of both Democrats and Republicans, protected in laws signed by every President since this program began 40 years ago—Presidents Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, George H.W. Bush, Bill Clinton, and George W. Bush.

The act itself became law after 8 years of congressional debate. Endorsed by the Eisenhower administration and the administrations of Presidents John F. Kennedy and Lyndon B. Johnson, the act was shaped by practical-minded people, mostly westerners. It is, as Senator Kuchel said during those Senate debates, ''reasonable . . . not extreme in any degree.''

Senator Kuchel insisted that the law not conflict with State water rights and that the act respect existing mining claims and established grazing uses. At the same time, Senator Kuchel reminded his colleagues that protecting wilderness watersheds is key to abundant, clean water supplies—the lifeblood of California's ranching and agricultural sector, our thriving cities and towns, and the economic well-being of our entire Nation.

Still, there is more wilderness to be protected and more work to be done. These days, Federal lands that deserve a fair look by Congress are, in some cases, under threat from other kinds of use that are inconsistent with the preservation of wilderness. This is the kind of careful balancing Congress undertakes as we make these decisions.

This Congress has a great opportunity to preserve even more stunning wilderness by completing action on the Northern California Coastal Wild Heritage Wilderness Act that I have cosponsored with my colleague Senator BARBARA BOXER. This bill has the strong and effective support of Representative MIKE THOMPSON, in whose district every acre of its proposed wilderness areas is situated, and the support of numerous cosponsors, including California Representatives from both sides of the aisle.

Among the 300,000 acres this priority bill would protect is the 42,000-acre King Range Wilderness, a wild expanse on our California ''lost coast'' south of Eureka. Many of the proposals in this bill are based on agency recommendations or proposals by local citizens like the Humboldt County nurse who has been working to save the King Range for 20 years. These areas enjoy strong support, as wilderness, from local business owners in the area, from hunting and fishing enthusiasts, from dedicated backpackers to young parents hiking or backpacking to introduce their children or their grandchildren to nature at its most wild.

Similarly worthy, bipartisan proposals await action for wilderness sponsored by our colleagues from New Mexico and Washington. And no less worthy is the proposed wilderness area designation for an area on the Caribbean National Forest in Puerto Rico—a wilderness area proposed by the U.S. Forest Service more than three decades ago.

As we consider these wilderness proposals, we can generally rely upon existing standards and interpretations of the Wilderness Act. Thanks to our predecessors we have a wealth of guidance in the legislative history of the Wilderness Act and the more than 100 laws Congress has enacted since to protect additional lands.

Now, as we celebrate the 40th year of the Wilderness Act, the preservation of our wilderness has never been more important. Population growth, especially in the Western United States, is placing increased pressure on our public lands. That is why it was so critical that our leaders acted 40 years ago and why it is urgent that we continue to preserve our Nation's natural treasures today.

John Muir once said, ''Everybody needs beauty as well as bread, places to play in and pray in, where nature may heal and give strength to body and soul alike.''

For 40 years, the Wilderness Act has entrusted Congress and the American people with the means to preserve that beauty.

## NOTICE OF CHANGE IN SENATE SERVICE PIN REGULATIONS

Mr. LOTT. Mr. President, I wish to announce that in accordance with Title V of the Rules of Procedure of the Senate Committee on Rules and Administration, the committee has updated the Senate Service Pin regulations effective September 22, 2004.

Based on the committee's review of the 1987 regulations which authorize the issuance of a staff service pin when a Senate staff member has served 12 years in the Senate, the Committee has concluded that service pins should be awarded to staff members who have served 20 years in the Senate and to those staff members who have served for 30 years.

Regulations adopted by the Committee on Rules and Administration on September 22, 2004, to replace similar regulations approved by the Committee on September 23, 1987, pursuant to S. Res. 21, agreed to September 10, 1965, relative to the awarding of service pins to Members, officers, and employees of the Senate:

1. Service pins of the material and design suggested by the Secretary of the Senate and approved by the leadership of the Senate and the Committee on Rules and Administration, together with appropriate Certificates of service signed by the Secretary of the Senate, shall be procured and awarded by the Secretary of the Senate.

2. Each Member of the Senate and each elected officer of the Senate shall receive his/her pin and certificate upon taking office.

3. Each employee of the Senate shall receive a pin and certificate after the completion of 12, 20, and 30 years on the Senate payroll.

4. Senate service shall be limited to all service—whether continuous or not—performed while on the Senate payroll.

5. Former employees of the Senate are not covered unless they were on the Senate payroll on or after September 22, 2004, and were otherwise qualified.

6. After the initial award of pins and certificates, the Secretary of the Senate shall arrange for presentation of subsequent awards to those who qualify pursuant to the pertinent provisions of this regulation.

7. Each individual who qualifies will receive a pin and certificate and no additional pins will be subsequently awarded to such individuals for more than 30 years of Senate service, except that appropriate date plates and/or seals may be presented by the Secretary of the Senate at termination of service.

## NATIONAL HISPANIC HERITAGE WEEK

Mr. JOHNSON. Mr. President, I today publicly recognize the importance of National Hispanic Heritage Month. This 30-day observance begins September 15th, the independence day of five Latin American countries, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, and includes Mexico's Independence Day, September 16, as well as Chile's day of Independence, September 18.

Despite that Hispanic Americans have played important roles in our great nation for the last five centuries, it wasn't until the 1960s that this legislative body officially honored the Hispanic ethnic legacy. In 1968 Congress voted to name the week including September 15 and 16 National Hispanic Heritage Week, and in 1988 Congress passed Public Law 100–402, expanding National Hispanic Heritage Week to a 30-day celebration.

Hispanic individuals have made immeasurable contributions to America in many fields. Dr. Severo Ochoa discovered RNA, Ribonucleic acid, and as a result won the Nobel Prize and set the foundations of many of today's medical technologies. Cesar Chaves made great strides in worker's rights, and more than three dozen Hispanic Americans have been awarded the Medal of Honor for their military service to our country.

America, the great melting pot, has always taken pride in her diversity. Over 10,000 of my constituents are of Hispanic origin, and approximately 40 million Hispanics call America home, making them the United States' largest minority group. It is with great honor that I bring attention to National Hispanic Heritage Month and the contributions of the Hispanic people.

## SPECIAL OLYMPICS SPORT AND EMPOWERMENT ACT OF 2004

Mr. BURNS. Mr. President, I rise to speak on the Special Olympics and Empowerment Act of 2004. I am proud to be an original cosponsor of this legislation which will create a multi-million dollar authorization, over 5 years, for the Special Olympics. This crucial funding will expand the scope of the Special Olympics by offering more children and adults with disabilities the opportunity to join in the life-changing events of the Special Olympics program.

The oath of the Special Olympics is ''Let me win. But if I cannot win, let me be brave in the attempt.'' This mission of this program certainly rings true to the spirit of America and beyond. More than one million athletes and 500,000 volunteers participate in Special Olympics world-wide. Also, in my State of Montana, the Special Olympics signifies a real success: during the last year over 2,000 Special Olympics athletes participated and they could choose from as many as fourteen Olympic-style sports.

It is important to me that Montanans with developmental and intellectual disabilities have access to recreational opportunities that will not only improve their health and well-being, but also promote mental and emotional strength. I encourage my colleagues to join me in supporting the Special Olympics.

# ADDITIONAL STATEMENTS

## HONORING THE ACCOMPLISHMENTS OF BEN WOODMAN

• Mr. BUNNING. Mr. President, I pay tribute to and congratulate Ben Woodman of Berea, KY on being awarded a Boren Undergraduate Scholarship from the David L. Boren National Security Education Program, NSEP.

Mr. Woodman was one of 181 applicants nationwide to receive one of these scholarships. NSEP is administered within the National Defense University in the Department of Defense. It funds outstanding U.S. students to study critical languages and world regions in exchange for a commitment to seek employment with the Federal Government in the arena of national security.

Mr. Woodman has been studying Arabic and will spend the year in Egypt. He attends the University of Kentucky and is majoring in international economics and Arabic.

The citizens of Madison County should be proud to have a man like Ben Woodman in their community. His example of dedication and hard work should be an inspiration to the entire Commonwealth. He has my most sincere admiration for this work and I look forward to his continued service to the United States.•

## TRIBUTE TO ANTOINE PETTWAY

• Mr. SESSIONS. Mr. President, I wish to recognize the achievements of Antoine Pettway on the occasion of his being honored by his high school, Wilcox Central High School, in Camden, AL. During ceremonies for Mr. Pettway, the Mayor of Camden, Henrietta Blackmon, presented him with a key to the city and a series of speakers praised their native son for his skills on the basketball court and for his

strengths as a person. I have watched his career unfold with special interest because I too went to school in the small town of Camden. While the community is not a wealthy one, it has produced many outstanding young people, and Antoine is one of the most noteworthy.

Antoine Pettway was born on November 13, 1982, to Joseph Pettway and Linda Crawford. Growing up in the small, rural town of Alberta, AL, Antoine ate, slept, and breathed basketball, when he was not working on his father's cattle farm or in his grandfather's country store. Pettway was a high school basketball standout averaging 24.3 points, 5.2 rebounds, and 6.7 assists, per game. Subsequently, with his athletic skills and strong leadership on and off the court, Antoine was able to help clinch State championship titles in 1998 for Keith High School, and in 2000 for Wilcox Central High School. Antoine was not only known for his athletic success, but also his academic success. He was a 4.0 student in high school and Salutatorian of his graduating class.

Pettway received athletic scholarships from Jacksonville State, Louisiana Tech, Alabama State, and Alabama A&M, but his heart belonged to the University of Alabama. Standing at only 6 feet, he was not noticed by the Tide's coach, Mark Gottfried, until the State tournament and after all scholarship positions had been filled for the upcoming season. However, Antoine was approached by Coach Gottfried and asked to walk on as a freshman. So, with the help of his father and an academic scholarship, Antoine Pettway entered the University of Alabama in the fall of 2000 and joined the Crimson Tide basketball team as a walk-on for the 2000–2001 season.

Antoine, determined to prove to Coach Gottfried that he belonged, averaged 2.9 points, 1.6 assists, and 1.1 rebounds per game during the 29 games he played his freshman year. His best game was a stand-out performance at Ole Miss in which he scored 19 points. His energy and skills on the court earned Pettway a scholarship in July of 2002.

During his sophomore year, Antoine became a well-recognized figure on the Crimson Tide's basketball team not only for his charisma and athletic ability, but also his bright red, shiny sneakers. They became his trademark. His ''ruby slippers'' earned him fame around the country, but he is probably most remembered that year for his layup at the buzzer that gave Alabama a 65–64 victory over Florida, clinching the Tide's first Southeastern Conference title since 1987.

In the 2002–2003 season, Pettway started 10 games and averaged 6.3 points, 2.5 rebounds, and 2.4 assists per game. He was ranked 7th in the SEC in assists to turnover ratio and shot 81.8 percent from the free throw line, making 36 of 44. His hard work and awesome talent was recognized by the basketball community when he was awarded the MVP of the Basketball Hall of Fame Tipoff Classic.

Antoine remained the heart and soul of the Crimson Tide's basketball team through his senior year and led his team to the Elite Eight of the NCAA Tournament, a plateau that Alabama basketball had never reached before. He was the starting point guard and averaged 9.38 points, 3.62 rebounds, and 3.31 assists per game.

Antoine's dedication and extraordinary work ethic can be seen not only on the basketball court, but also in the classroom. In his senior year, he was named Academic All-Southeastern Conference. To make the honor roll, an athlete must be a sophomore or higher in academic standing and have a 3.0 (on a 4.0 scale) or higher grade point average. He graduated from the University of Alabama in May of 2004 with a degree in Health Care Management.

Most recently, Antoine Pettway was selected as the World Basketball Association's ''Rookie of the Year'' and was named to the 2nd Team All-WBA All-Star Team. He helped lead his team, the Kentucky Reach, the first Christian-based professional basketball team, to an 11–9 record and averaged 4.6 assists and 12.7 points per game. He is ranked second in the league in assists and 14th in scoring.

The people of Camden and Wilcox county are proud of his basketball success, and they are even more proud of his leadership, his academic achievements, and his character. Indeed, Antoine Pettway's accomplishments on and off the court have inspired young and old to strive for excellence. He has high ideals and is true to his faith. The people of the State of Alabama are proud to call him their native son, and I wish him best of luck with his future endeavors. Whatever the future holds for this Wilcox County native son, it will be bright because he has his priorities straight.

I am proud to recognize the accomplishments of a great American and Alabamian, and a wonderful representative of Wilcox County, Antoine Pettway.●

## COMMEMORATING THE 100TH ANNIVERSARY OF THE POLISH DAILY NEWS

● Mr. LEVIN. Mr. President, I am honored to recognize Dziennik Polski, or the Polish Daily News, one of Michigan's oldest and honored publications, on its 100th anniversary. The Polish Daily News can be proud of its dedication to generations of Polish Americans and its support of American traditions and ideals. The Polish Daily News has worked together with other organizations in the greater Detroit area to help build strong and effective communities, which has given rise to a diverse and vibrant socioeconomic region in southeast Michigan.

Founded in 1904 by a small group of community members, the Polish Daily News was housed in a building on the south side of Canfield east of Riopelle. This was home to the paper until the 1960s when the offices and print production moved to a location on Van Dyke in Detroit. A third and fourth move relocated the newspaper to two addresses on Joseph Campau, with the last one in Hamtramck. As Detroit's primary Polish newspaper serving the new immigrants who began to settle in what was becoming the Nation's Motor City, the Polish Daily News played a vital role in building a strong Polonia that was committed to full participation in American life. The paper supported a cohesive community that encouraged its members to strive for accomplishments that reflected their shared values of a deep commitment to family, faith, hard work, as well as the American ideals of democracy and freedom. With a circulation of 30,000 during the 1940s and 1950s, the Polish Daily News kept its readership informed about the struggle for Poland's independence from Soviet oppression while advocating for a future democratic Poland and strong U.S.-Poland relations.

Today as the Polish Weekly, the newspaper continues the heritage of promoting both a strong Polonia and citizen participation in the life of the United States. The Polish Daily News is celebrating its 100th anniversary of serving the Polish-American community of greater Detroit on Saturday, October 2, 2004. Families, friends, community leaders, and elected officials will gather at the American Polish Cultural Center in Troy to pay tribute to the important efforts of the Polish Daily News organization which has helped to promote community life and strengthen Polish-American pride throughout the 100 years of its existence.

I know my Senate colleagues join me in also congratulating publisher Bruno Nowicki and the editors and staff, along with the community supporters and many friends of the Polish Daily News/Polish Weekly on this great milestone. I am proud to recognize their record of service to the Polish-American community and their respected standing among all the people of Michigan. A Hearty Sto Lat—Another 100 Years.●

## REMEMBERING ED HENNESSEE FROM LAWTON, OK

● Mr. INHOFE. Mr. President, earlier today, my State of Oklahoma, as well as the Nation, lost a true friend of education.

Ed Hennessee, a longtime resident of Lawton, OK died doing what he loved best—advocating for children attending federally connected school districts.

Ed served the Lawton Public Schools in a variety of capacities for many years retiring as assistant superintendent for business in 1995.

While in that capacity he fought for a program that I have come to champion—Impact Aid.

The program's origin was rooted in Oklahoma in the late 1940s and early 1950s, when Oscar Rose, superintendent of the Mid-Del Schools and others convinced Congress that the Federal Government had a responsibility and an obligation to provide assistance to school districts serving children whose parents were employed by the Federal Government or the military. Ed Hennessee continued that legacy right up to the time of his death this morning.

During his long education career, Ed received many honors, including being named the State of Oklahoma Teacher of the Year.

However, he was most proud of the fact that he was helping children.

He truly understood that education is about giving children an opportunity to be successful. One of his most frequent statements was ''Teach a child to love to learn, then you will be successful teaching them any school subject.'' Ed was a success because he loved learning.

He also loved helping others have the opportunity to learn, and, thankfully, he taught many the importance of using their gifts and talents to help our children. Although he retired from the Lawton Public Schools in the mid-1990s, he continued serving federally connected schools. As executive director of the National Council of Impacted Schools, he continued to work for both Oklahoma federally connected schools, along with other schools throughout the nation.

He visited my office at least twice a year to talk about ways to improve the program. He was an expert on the intricacies of the often complex and confusing details of Impact Aid and freely offered that expertise. When my staff or I needed information about how schools in Oklahoma and around the country would be affected by the level of funding appropriated for Impact Aid, Ed knew the answers. He was an innovator for Impact Aid.

For example, S. 777 was a bill I developed from one of his ideas. Ed was in Washington this weekend to advocate for the Impact Aid program when he became ill. He was doing what he had been doing for more than a quarter of a century—- asking Congress to fulfill its obligation to school districts all across this country that are impacted by a federal presence.

Prior to Ed's retirement, he served on the Board of Directors of the National Association of Federally Impacted Schools and served as its President from 1991 to 1993. He never stopped putting the needs of federally connected students at the top of his priority list. His presence will indeed be missed—not only by those who knew him well, such as his dear wife Edna who was always by his side—but also by those who enjoy the fruits of his labor.●

## IN RECOGNITION OF HIS EXCELLENCY H.E. BADER OMAR AL-DAFA, AMBASSADOR OF QATAR TO THE UNITED STATES

● Mr. LEVIN. Mr. President, I take this opportunity to recognize Ambassador H.E. Bader Omar Al-Dafa, a distinguished career diplomat and the current Ambassador of Qatar to the United States. Ambassador Al-Dafa, who earned his bachelor's degree in political science from Western Michigan University in 1975, will receive the College of Arts and Sciences Alumni Achievement Award from Western Michigan University in a special ceremony on October 15, 2004.

Ambassador Al-Dafa is admired in Michigan for his dedication to service and his work in promoting US-Arab relations. His efforts to foster better understanding among America, Qatar and the Arab world through support of important initiatives in the American Arab community are appreciated by many. His respect for diplomacy has been demonstrated throughout his exemplary career which spans more than 25 years.

Upon graduation from Western Michigan University, Ambassador Al-Dafa began his career as a diplomatic attaché at the Ministry of Foreign Affairs, Doha. While serving in his second assignment as First Secretary at the Embassy of the State of Qatar in Washington, DC, he earned a master's degree in international public policy from the School of Advanced International Studies at Johns Hopkins University in 1979. With his solid understanding of America and its people, Ambassador Al-Dafa has been energetic and consistent in his commitment to improving bilateral relations.

Ambassador Al-Dafa has served in his post as Ambassador of Qatar to the United States since September 5, 2000. Prior to this assignment, he served as Non-Resident Ambassador to Mexico; Director of European and American Affairs Department, Ministry of Foreign Affairs in Qatar; Ambassador to The Russian Federation; Non Resident Ambassador to Finland, Latvia, Lithuania, Estonia; Ambassador to France and Non Resident Ambassador to Greece; Non-Resident Ambassador to Switzerland; Ambassador to Egypt and Permanent Representative to the Arab League in Cairo, Egypt; and Ambassador to Spain. Through the Washington Embassy, Ambassador Al-Dafa has worked on a wide array of programs, including the establishment of branches of Virginia Commonwealth University, Texas A&M, and Weill Cornell Medical College in Education City in Doha. In addition to Arabic and English, he speaks Spanish and French fluently. Ambassador Al-Dafa is married to Awatef Mohamed Al-Dafa and has three children.

I know my colleagues join me in congratulating Ambassador Al-Dafa on his success and achievements in international affairs and on this prestigious honor that will be conferred by Western Michigan University. I am pleased to offer my best wishes on his continued service and contribution to the close ties and good relations between the State of Qatar and the United States.●

# MESSAGES FROM THE HOUSE

## ENROLLED BILLS SIGNED

At 10:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S.J. Res. 41. Joint resolution commemorating the opening of the National Museum of the American Indian.

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.

H.R. 3389. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 1:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with an amendment:

S. 643. An act to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes.

The message also announced that pursuant to the request of September 14, 2004, the House returned the act (S. 2261) to expand certain preferential trade treatment for Haiti to the Senate.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year for Armed Forces, and for other purposes, and agrees to the conference asked by Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. HUNTER, WELDON of Pennsylvania, HEFLEY, SAXTON, MCHUGH, EVERETT, BARTLETT of Maryland, MCKEON, THORNBERRY, HOSTETTLER, JONES of North Carolina, RYUN of Kansas, GIBBONS, HAYES, Mrs. WILSON of New Mexico, Messrs. CALVERT, SIMMONS, SKELTON, SPRATT, ORTIZ, EVANS, TAYLOR of Mississippi, ABERCROMBIE, MEEHAN, REYES, SNYDER, TURNER of

Texas, SMITH of Washington, Ms. LORETTA SANCHEZ of California, and Mr. HILL.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Messrs. HOEKSTRA, LAHOOD, and Ms. HARMAN.

From the Committee on Agriculture, for consideration of section 1076 of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BURNS, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 590, 595, 596, 904, and 3135 of the House bill, and sections 351, 352, 532, 533, 707, 868, 1079, 3143, and 3151–3157 of the Senate amendment, and modifications committed to conference: Messrs. CASTLE, SAM JOHNSON of Texas, and BISHOP of New York.

From the Committee on Energy and Commerce, for consideration of sections 596, 601, 3111, 3131, 3133, and 3201 of the House bill, and sections 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, UPTON, and DINGELL.

From the Committee on Government Reform, for consideration of sections 801, 806, 807, 825, 1061, 1101–1104, 2833, 2842, 2843 of the House bill, and sections 801, 805, 832, 851, 852, 869, 870, 1034, 1059B, 1091, 1101, 1103–1107, 1110, 2823, 2824, 2833, and 3121 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, SHAYS, and WAXMAN.

From the Committee on House Administration, for consideration of sections 572 and 1065 of the Senate amendment, and modifications committed to conference: Messrs. NEY, EHLERS, and LARSON of Connecticut.

From the Committee on International Relations, for consideration of sections 811, 1013, 1031, 1212, 1215, title XIII, sections 1401–1405, 1411, 1412, 1421, and 1422 of the House bill, and sections 1014, 1051–1053, 1058, 1059A, 1059B, 1070, title XII, sections 3131 and 3132 of the Senate amendment, and modifications committed to conference: Messrs. HYDE, LEACH, and LANTOS.

From the Committee on the Judiciary, for consideration of sections 551, 573, 616, 652, 825, 1075, 1078, 1105, 2833, 2842, and 2843 of the House bill, and sections 620, 842, 1063, 1068, 1074, 1080–1082, 1101, 1106, 1107, 2821, 2823, 2824, 3143, 3146, 3151–3157, 3401–3410 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 601 and 2834 of the House bill, and section 1076 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, WALDEN of Oregon, and INSLEE.

From the Committee on Science, for consideration of section 596 of the House bill, and sections 1034, 1092, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, SMITH of Michigan, and GORDON.

From the Committee on Small Business, for consideration of sections 807 and 3601 of the House bill, and sections 805, 822, 823, 912, and 1083 of the Senate amendment, and modifications committed to conference: Mr. MANZULLO, Mrs. KELLY, and Ms. VELÁZQUEZ.

From the Committee on Transportation and Infrastructure, for consideration of sections 555, 558, 596, 601, 905, 1051, 1063, 1072, and 3502 of the House bill, and sections 321, 323, 325, 717, 1066, 1076, 1091, 2828, 2833–2836, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, DUNCAN, and CAPUANO.

From the Committee on Veterans Affairs, for consideration of sections 2810 and 2831 of the House bill, and sections 642, 2821, and 2823 of the Senate amendment, and modifications committed to conference: Messrs. SMITH of New Jersey, BROWN of South Carolina, and MICHAUD.

From the Committee on Ways and Means, for consideration of section 585 of the House bill, and section 653 of the Senate amendment, and modifications committed to conference: Messrs. SHAW, CAMP, and RANGEL.

The message also announced that the House has passed the following bill, without amendment:

S. 1537. An act to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery.

S. 1687. An act to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1778. An act to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

S. 2052. An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

S. 2180. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

S. 2363. An act to revise and extend the Boys and Girls Clubs of America.

S. 2508. An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2941. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

H.R. 3210. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte Bear Creek Subbasins in Oregon.

H.R. 3247. An act to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, to clarify the purposes for which collected fines may be used, and for other purposes.

H.R. 3479. An act to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes.

H.R. 3597. An act to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California, and for other purposes.

H.R. 3954. An act to authorize the Secretary of the Interior to resolve boundary discrepancies in San Diego County, California, arising from an erroneous survey conducted by a government contractor in 1881 that resulted in overlapping boundaries for certain lands, and for other purposes.

H.R. 4046. An act to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the ''Sergeant Riayan A. Tejada Post Office''.

H.R. 4066. An act to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

H.R. 4077. An act to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the Internet, and for other purposes.

H.R. 4319. An act to complete the codification of title 46, United States Code, ''Shipping,'' as positive law.

H.R. 4469. An act to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

H.R. 4579. An act to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes.

H.R. 4596. An act to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009.

H.R. 4606. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

H.R. 4617. An act to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.

H.R. 4657. An act to amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters, and for other purposes.

H.R. 4683. An act to enhance the preservation and interpretation of the Gullah Geechee cultural heritage, and for other purposes.

H.R. 4808. An act to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base.

H.R. 4827. An act to amend the Colorado Canyons National Conservation Area and

Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

H.R. 4838. An act to establish a Healthy Forest Youth Conservation Corps to provide a means by which young adults can carry out rehabilitation and enhancement projects to prevent fire and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief, and for other purposes.

H.R. 5009. An act to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana, and for other purposes.

H.R. 5016. An act to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska.

H.R. 5025. An act making appropriations for the Department of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 5027. An act to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the ''Specialist Eric Ramirez Post Office''.

H.R. 5133. An act to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the ''Martha Pennino Post Office Building.''

H.R. 5147. An act to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the ''Evan Asa Ashcraft Post Office Building''.

H.J. Res. 102. Joint resolution recognizing the 60th anniversary of the Battle of Peleliu and the end of Imperial Japanese control of Palau during World War II and urging the Secretary of the Interior to work to protect the historic sites of the Peleliu Battlefield National Historic Landmark and to establish commemorative programs honoring the Americans who fought there.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 461. Concurrent resolution expressing the sense of Congress regarding the importance of life insurance, and recognizing and supporting National Life Insurance Awareness Month.

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At 3:56 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 480. An act to redesignate the facility of the United States Postal Service located at 747 Broadway in Albany, New York, as the ''United States Postal Service Henry Johnson Annex''.

H.R. 5122. An act to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

The message also announced that the House has agreed to the following concurrent resolution with an amendment.

S. Con. Res. 135. Concurrent resolution authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan.

At 4:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 107. Joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 1084. An act to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

H.R. 1787. An act to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5025. An act making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 4066. An act to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

## ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 29, 2004, she had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 41. Joint resolution commemorating the opening of the National Museum of the American Indian.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9492. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Columbus, NE Doc. No. 04–ACE–42'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9493. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Urbana, OH Doc. No. 04–AGL–01'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9494. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Georgetown, OH Doc. No. 04–AGL–02'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9495. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Janesville, WI Doc. No. 04–AGL–07'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9496. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Kalamazoo, MI Doc. No. 04–AGL–04'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9497. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; South Haven, MI Doc. No. 04–AGL–05'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9498. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; Rochester, MN; Modification of Class E Airspace; Rochester, MN Doc. No. 04–AGL–10'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9499. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; Camp Douglas, WI Doc. No. 04–AGL–08'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9500. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; Mount Clemens, MI Doc. No. 03–AGL–20'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9501. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; King Salmon, AK Doc. No. 03–AAL–09'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9502. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Establishment of Class E Airspace; Shungnak, AK Doc. No. 04–AAL–08'' (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9503. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law , the report of a rule entitled ''Indiana Regulatory Program'' (IN–154–FOR) received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9504. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law , the report of a rule entitled ''Ohio Regulatory Program'' (OH–248–FOR) received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9505. A communication from the Director, Office of Human Resources, Department of Energy, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Policy and International Affairs, Department of Energy, received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9506. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992'' (Doc. No. RM93–11–002) received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9507. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''The Superfund Innovative Technology Evaluation Program: Annual Report to Congress FY 2002''; to the Committee on Environment and Public Works.

EC–9508. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Iowa Update to Materials Incorporated by Reference'' (FRL#7812–5) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9509. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities; New Jersey'' (FRL#7818–4) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9510. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Connecticut: Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL#7817–9) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9511. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL#7817–6) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9512. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination to Stay and/or Defer Sanctions, Maricopa County Environmental Services Department'' (FRL#7818–1) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9513. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone; Listing of Substitutes in the Foam Sector'' (FRL#7821–6) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9514. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds'' (RIN1018–AT53) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9515. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Final Frameworks for Late Season Migratory Bird Hunting Regulations'' (RIN1018–AT53) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9516. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Mexican Spotted Owl'' (RIN1018–AT53) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9517. A communication from the Deputy Director, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Remove the Tiniam Monarch from the Federal List of Endangered and Threatened Wildlife'' (RIN1018–AI14) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9518. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Continuation of Medicare Entitlement When Disability Benefit Entitlement Ends Because of Substantial Gainful Activity'' (RIN0938–AK94) received on September 28, 2004; to the Committee on Finance.

EC–9519. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Health Care Fraud and Abuse Data Collection Program; Technical Revisions to Healthcare Integrity and Protection Data Bank Collection Activities'' received on September 28, 2004; to the Committee on Finance.

EC–9520. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Physicians' Referrals to Health Care Entities with which They Have Financial Relationships (Phase II); Correcting Amendment'' (RIN0938–AK67) received on September 28, 2004; to the Committee on Finance.

EC–9521. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Collected Excise Taxes; Duties of Collector'' (RIN1545–BB75) received on September 28, 2004; to the Committee on Finance.

EC–9522. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''NQLX SFC Dealers Revenue Ruling'' (Rev. Rule 2004–94) received on September 28, 2004; to the Committee on Finance.

EC–9523. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Chief Human Capital Officers (CHCO) Council's Report to Congress for fiscal year 2003; to the Committee on Governmental Affairs.

EC–9524. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2003; to the Committee on Governmental Affairs.

EC–9525. A communication from the Director, Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled ''Technical Updating Amendments to Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations'' (RIN3209–AA00 and 04) received on September 28, 2004; to the Committee on Governmental Affairs.

EC–9526. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives Subject to Certification; D&C Black No. 2; Correction'' (Doc. No. 1987C–0023) received on September 28 , 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9527. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Labeling for Menstrual Tampons; Ranges of Absorbency, Change from 'Junior' to 'Light'" (Doc. No. 2000N–1520) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9528. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Skin Protectant Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment'' (RIN0910–AF42) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9529. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Dental Devices; Dental Noble Metal Alloys and Dental Base Metal Alloys; Designation of Special Controls'' (Doc. No. 2003N–0390) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9530. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Presubmission Conferences'' (Doc. No. 2000N–1399) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9531. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report relative to the Commission's Inventory of Commercial and Inherently Governmental Activities; to the Committee on Health, Education, Labor, and Pensions.

EC–9532. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report relative to time limits for the

federal courts to act on capital habeas petitions and motions for rehearing; to the Committee on the Judiciary.

EC–9533. A communication from the Vice Chair, Election Assistance Commission, transmitting, pursuant to law, the report of a rule entitled ''Statement of Policy Regarding National Mail Voter Registration Form'' received on September 28, 2004; to the Committee on Rules and Administration.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1417. To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges.

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S. Con. Res. 121. A concurrent resolution supporting the goals and ideals of the World Year of Physics.

## 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 (for himself and Mr. NELSON of Florida):

S. 2857. A bill to authorize ecosystem restoration projects for the Indian River Lagoon and the Picayune Strand, Collier County, in the State of Florida; to the Committee on Environment and Public Works.

By Mr. GREGG (for himself, Mr. ALLARD, and Mr. ALEXANDER):

S. 2858. A bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 2859. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM (for himself and Mr. ROCKEFELLER):

S. 2860. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. KENNEDY, Ms. MIKULSKI, Mr. DURBIN, Mr. DODD, and Mr. REED):

S. 2861. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 2862. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of universal basic education in all developing countries as an objective of United States foreign assistance policy, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DEWINE, and Mr. DASCHLE):

S. 2863. A bill to authorize appropriations for the Department of Justice for fiscal years 2005, 2006, and 2007, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. LEAHY, Mr. BOND, Mr. NELSON of Nebraska, and Mr. FEINGOLD):

S. 2864. A bill to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 2865. A bill to require that automobiles and light trucks are able to operate on a fuel mixture that is at least 85 percent ethanol, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE (for himself, Mr. HAGEL, Mr. ROBERTS , Mr. BURNS, Mr. CORNYN, Ms. CANTWELL, Mrs. BOXER, Mr. NELSON of Nebraska, and Mr. CRAIG):

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans; read the first time.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself and Mr. WYDEN):

S. Res. 441. A resolution expressing the sense of the Senate that October 17, 1984, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, should be memorialized; to the Committee on Indian Affairs.

By Ms. LANDRIEU (for herself and Mr. ALLEN):

S. Res. 442. A resolution apologizing to the victims of lynching and their descendants for the Senate's failure to enact anti-lynching legislation; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 443. A resolution to authorize testimony, document production, and legal representation in United States v. Roberto Martin; considered and agreed to.

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. SPECTER, Mr. ALEXANDER, and Mr. REID):

S. Res. 444. A resolution congratulating and commending the Veterans of foreign Wars of the United States and its national Commander-in-Chief, John Furgess of Tennessee; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 282

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 282, a bill to amend the Education Sciences Reform Act of 2002 to require the Statistics Commissioner to collect information from coeducational secondary schools on such schools' athletic programs.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 533

At the request of Mr. SCHUMER, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 533, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 847

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 977

At the request of Mr. FITZGERALD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 977, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 989

At the request of Mr. ENZI, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 989, a bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1304

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1304, a bill to improve the health of women through the establishment of Offices of Women's Health within the

Department of Health and Human Services.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1601

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1601, a bill to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes.

S. 1700

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1996

At the request of Mr. DASCHLE, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1996, a bill to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

S. 2338

At the request of Mr. BOND, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2363

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2426

At the request of Mr. NELSON of Nebraska, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2426, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 2431

At the request of Mr. NELSON of Nebraska, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2431, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certified diabetes educators recognized by the National Certification Board of Diabetes Educators as certified providers for purposes of outpatient diabetes education services under part B of the medicare program.

S. 2526

At the request of Mr. BOND, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2526, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2593

At the request of Mrs. LINCOLN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2593, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with access to geriatric assessments and chronic care management, and for other purposes.

S. 2715

At the request of Mr. COLEMAN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2715, a bill to improve access to graduate schools in the United States for international students and scholars.

S. 2770

At the request of Mr. DASCHLE, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2770, a bill to establish a National Commission on American Indian Trust Holdings.

S. 2808

At the request of Mr. BYRD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2808, a bill to amend title 5, United States Code, to make the date of the signing of the United States Constitution a legal public holiday, and for other purposes.

S. 2827

At the request of Mrs. CLINTON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2827, a bill to amend the Federal Rules of Evidence to create an explicit privilege to preserve medical privacy.

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 271

At the request of Mr. COLEMAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor 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.

S. RES. 408

At the request of Mr. SMITH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

S. RES. 424

At the request of Mr. CRAIG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 424, a resolution designating October 2004 as ''Protecting Older Americans From Fraud Month''.

AMENDMENT NO. 3704

At the request of Mr. WYDEN, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 3704 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3706

At the request of Mrs. FEINSTEIN, her name was withdrawn as a cosponsor of amendment No. 3706 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

At the request of Mr. SPECTER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 3706 proposed to S. 2845, supra.

AMENDMENT NO. 3710

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of amendment No. 3710 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG (for himself, Mr. ALLARD, and Mr. ALEXANDER):

S. 2858. A bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes; to the Committee on Finance.

Mr. GREGG. Mr. President, military action in Afghanistan and Iraq has brought to light another example of how outdated and burdensome government policies can punish generous employers. Employers that continue to pay their employees now on active duty in the uniformed services are experiencing tax and pension difficulties that are discouraging this pro-worker, patriotic gesture. Apparently, when it comes to companies showing their respect for their employees called to serve, there is special meaning to the old cliché ''no good deed goes unpunished.''

The National Committee for Employer Support for the Guard and Reserve, a nationwide association, reports that over 2,500 employers have signed a pledge of support and have gone above and beyond the requirements of the law in support of their National Guard and Reserve employees. This includes many of our Nation's largest and most reputable corporations, including 3M, McDonalds, Wal-Mart, Home Depot, Liberty Mutual and many others. These commendable companies provide reservist employees who are on active duty with ''differential pay'' that makes up the difference between their military stipend and civilian salary.

Not just national companies provide special pay to our men and women who are called to serve overseas. In New Hampshire, some of the most remarkable stories of corporate patriotism can be found. BAE Systems of Nashua provides differential pay to their 25 called-up employees and continuing access to benefits to family members. The company even provides a stipend to make up the lost pay of active duty spouses of company employees when the spouse's employer is not able to provide differential pay.

Consider also the account of Mr. Marian Noronha, Chairman and Founder of Turbocam, a manufacturer based in Dover, New Hampshire. An immigrant from India, Mr. Noronha has not only provided his employees with differential pay and continued family health benefits, but has also extended to each of his activated employees a $10,000 line of credit. His active duty reservist and Guard employees have used this money to, among other things, purchase personal computers so their families can communicate with them while they are overseas. Several other New Hampshire private-sector companies, including Hitchiner Manufacturing Company in Milford, have exemplary records when it comes to dealing with reservist employees. Also, New Hampshire's Governor Benson by Executive Order has extended differential pay for up to 18 months to State employees who have been called to active duty.

Under current law, employers of reservists and guardsmen called up for active duty are required to treat them as if they are on a leave of absence under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). The Act does not require employers to pay reservists who are on active duty. But as I have pointed out, many employers pay the reservists the difference between their military stipends and their regular salaries. Some employers provide this ''differential pay'' for up to three years. For employee convenience, many of these companies also allow deductions from the differential payment for contributions to their 401(k) retirement plans.

The conflict arises, however, because a 1969 IRS Revenue Ruling considers the employment relationship terminated when active duty begins. This ruling prevents employers from treating the differential pay as wages for income tax purposes, resulting in unexpected tax bills at the end of the year for these military personnel. Further, the contributions made to the worker's retirement account potentially invalidate, disqualify, the employer's entire retirement plan which could make all amounts immediately taxable to plan participants and the employer.

The Uniformed Services Differential Pay Protection Act that I am introducing today clarifies that differential wage payments are to be treated as wages to current employees for income tax purposes and that retirement plan contributions are permissible.

Differential wage payments would be treated as wages for income tax withholding purposes and reported on the worker's W–2 form. This means that active duty personnel will not be hit with end-of-the-year tax bills.

No New Taxes: The legislation does not change present law, and deferential wage payments will not be subject to Social Security and unemployment compensation taxes.

Definition: ''Differential wage payments'' are defined to mean any payment which: (1) is made by an employer to an individual while he or she is on active duty for a period of more than 30 days, and (2) represents all or a portion of the wages the individual would have received from the employer if he or she were performing service for the employer.

An individual receiving differential wage payments would continue to be treated as an employee for purposes of the rules applicable to qualified retirement plans, removing the threat that contributions on his or her behalf would invalidate the employer's entire plan.

Distributions Protected: Clarifying language is included to ensure that individuals would continue to be permitted to take distributions from their accounts when they leave their jobs for active duty. Thus, the right to receive distributions will be preserved even though individuals are treated as current employees for contribution purposes. The bill includes a prohibition on making elective deferrals or employee contributions for six months after receiving a distribution.

Satisfying Nondiscrimination Rules: In order to avoid disruptions in retirement savings plans and to remove disincentives, employers could disregard contributions to retirement savings accounts based on differential wage payments for nondiscrimination testing purposes, provided that such payments are available to all mobilized employees on reasonably equivalent terms.

In summary, the Uniformed Services Differential Pay Protection Act upholds the principle that employers should not be penalized for their generosity towards our Nation's reservists and members of the National Guard.

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. 2858

*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 ''Uniformed Services Differential Pay Protection Act''.

**SEC. 2. INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.**

(a) IN GENERAL.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(i) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

''(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

''(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

''(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

''(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 2004.

**SEC. 3. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.**

(a) PENSION PLANS.—

(1) IN GENERAL.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

''(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

''(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

''(ii) the differential wage payment shall be treated as compensation, and

''(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

''(B) SPECIAL RULE FOR DISTRIBUTIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

''(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

''(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

''(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(i)(2).''

(2) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting ''AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY'' after ''USERRA''.

(b) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new sentence: ''The term 'compensation' includes any differential wage payment (as defined in section 3401(i)(2)).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

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By Ms. MURKOWSKI:

S. 2859. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into the law; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. MURKOWSKI. Mr. President, it is a fact that scientists, the media and the public are gradually awakening to the serious disadvantages of fish raised in fish farming operations compared to naturally healthy wild fish species such as Alaska salmon, halibut, sablefish, crab and many other species.

News reports are now common that cite not only the general health advantages of eating fish at least once or twice a week, but the specific advantages of fish such as wild salmon, which contains essential Omega-3 fatty acids that may help reduce the risk of heart disease and possibly have similar beneficial effects on other diseases.

Educated and watchful consumers have also seen recent stories citing research demonstrating that farmed salmon fed vegetable-based food does not have the same beneficial impact on cardio-vascular health, but that the demand for non-vegetable-based food for fish farms may be decimating populations of other key fish species.

Those same alert consumers may also have seen stories indicating that fish farms may create serious pollution problems from the concentration of fish feces and uneaten food, that fish farms may harbor diseases that can be transmitted to previously healthy wild fish stocks, and that fish farming has had a devastating effect on communities that depend on traditional fisheries.

And yet, despite abundant evidence that fish farming practices are deeply problematic, a small cadre of federal bureaucrats continues to push hard for legislation that would encourage the development of huge new fish farms off our coasts. These same people have been pushing the idea for a number of years, and are closer than ever to presenting draft legislation that would vastly expand fish farming by encouraging the development of new farms in the U.S. Exclusive Economic Zone from 3 to 200 miles offshore.

Not only does this small group want to encourage such development, but reports indicate they want to change the rules to place all the decision-making authority over new farms in the hands of just one agency—which just happens to be theirs—rather than continue the current system where authority is spread among the agencies with the greatest expertise in different areas, such as hydraulic engineering, environmental protection, fish biology, etc.

We cannot afford a rush to judgment on this issue—it is far too dangerous if we make a mistake.

The Natural Stock Conservation Act I am introducing today lays down a marker for where this debate needs to go. It would prohibit the development of new offshore aqua-culture operations until Congress has acted to ensure every federal agency involved does the necessary analyses in areas such as disease control, engineering, pollution prevention, biological and genetic impacts, and other critical issues, none of which are specifically required under existing law.

I realize it is far too late in this session to anticipate action on such a controversial and complex issue, but I intend this bill to stimulate further debate on this issue next year, as Congress begins serious work on the future of our ocean programs in response to the U.S. Ocean Commission report. I intend to pursue this discussion vigorously, and I will be calling on other coastal senators to work with me.

We all want to make sure we enjoy abundant supplies of healthy foods in the future, but not if it means unnecessary and avoidable damage to wild species, to the environment generally, and to the economies of America's coastal fishing communities.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2859

*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 ''Natural Stock Conservation Act of 2004''.

**SEC. 2. PROHIBITION ON PERMITS FOR AQUACULTURE.**

The National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 10 and 11 as sections 11 and 12 respectively; and

(2) by inserting after section 9 the following new section:

PROHIBITION ON PERMITS FOR AQUACULTURE

''SEC. 10. (a) IN GENERAL.—The head of an agency with jurisdiction to regulate aquaculture may not issue a permit or license to permit an aquaculture facility located in the exclusive economic zone to operate until after the date on which a bill is enacted into law that—

''(1) sets out the type and specificity of the analyses that the head of an agency with jurisdiction to regulate aquaculture shall carry out prior to issuing any such permit or license, including analyses related to—

''(A) disease control;

''(B) structural engineering;

''(C) pollution;

''(D) biological and genetic impacts;

''(E) access and transportation;

''(F) food safety; and

''(G) social and economic impacts of such facility on other marine activities, including commercial and recreational fishing; and

''(2) requires that a decision to issue such a permit or license be—

''(A) made only after the head of the agency that issues such license or permit

consults with the Governor of each State located within a 200-mile radius of the aquaculture facility; and

''(B) approved by the regional fishery management council that is granted authority under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) over a fishery in the region where the aquaculture facility will be located.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY WITH JURISDICTION TO REGULATE AQUACULTURE.—The term 'agency with jurisdiction to regulate aquaculture' means each agency and department of the United States, as follows:

''(A) The Department of Agriculture.

''(B) The Coast Guard.

''(C) The Department of Commerce.

''(D) The Environmental Protection Agency.

''(E) The Department of the Interior.

''(F) The U.S. Army Corps of Engineers.

''(2) EXCLUSIVE ECONOMIC ZONE.—The term 'exclusive economic zone' has the meaning given that term in section 3 of the of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(3) REGIONAL FISHERY MANAGEMENT COUNCIL.—The term 'regional fishery management council' means a regional fishery management council established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)).''.

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By Mr. SANTORUM (for himself and Mr. ROCKEFELLER):

S. 2860. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today I am introducing along with Senator ROCKEFELLER the Fire Sprinkler Incentive Act of 2004. Passage of this bipartisan bill would serve to help reduce the tremendous annual economic and human loss that fire in the United States inflicts on our Nation.

In the United States, fire departments responded to approximately 1.7 million fires in 2002. Annually, over 500,000 of these are structural fires causing approximately 3,400 deaths, around 100 of which are firefighters. Fire also caused some 18.5 million civilian injuries and $10.3 billion in direct property loss. The indirect cost of fire in the United States annually exceeds $80 billion. These losses are staggering. All of this translates to the fact that fire departments respond to a fire every 18 seconds. Every 60 seconds a fire breaks out in a structure and in a residential structure every 80 seconds.

There are literally thousands of high-rise buildings built under older codes that lack adequate fire protection. In addition, billions of dollars were spent to make these and other buildings handicapped accessible, but people with disabilities now occupying these buildings are not adequately protected from fire. At recent code hearings, representatives of the health care industry testified that there are approximately 4,200 nursing homes that need to be retrofitted with fire sprinklers. They further testified that the cost of protecting these buildings with fire sprinklers would have to be raised through corresponding increases in Medicare and Medicaid. In addition to the alarming number of nursing homes lacking fire sprinkler protection, there are literally thousands of assisted living facilities housing older Americans and people with disabilities that lack fire sprinkler protection.

The solution resides in automatic sprinkler systems that are usually triggered within 4 minutes of the temperature rising above 120 degrees. The National Fire Protection Association (NFPA) has no record of a fire killing more than two people in a public assembly, educational, institutional, or residential building that has fully operational sprinklers. Furthermore, sprinklers are responsible for dramatically reducing property loss.

Building owners do not argue with fire authorities over the logic of protecting their building with fire sprinklers. The issue is cost. This bill would drastically reduce the staggering annual economic toll of fire in America and thereby dramatically improve the quality of life for everyone involved. This legislation provides a tax incentive for businesses to install sprinklers through the use of a 5-year depreciation period, opposed to the current 27.5 or 39-year period for installations in residential rental and non-residential real property respectively. While only a start, the bill will help eliminate the massive losses seen in nursing homes, nightclubs, office buildings, apartment buildings, manufacturing facilities, and other for-profit entities.

This bill enjoys support from a variety of organizations. They include: the American Insurance Association, the American Fire Sprinkler Association, the California Department of Forestry and Fire Protection, Campus Firewatch, Congressional Fire Services Institute, Independent Insurance Agents & Brokers of America, International Association of Arson Investigators, International Association of Fire Chiefs, International Fire Service Training Association, National Fire Protection Association, National Fire Sprinkler Association, National Volunteer Fire Council, the Society of Fire Protection Engineers, and the Mechanical Contractors Association of America.

The Fire Sprinkler Incentive Act of 2004 provides long needed safety incentives for building owners that will help fire departments across the country save lives. I ask my colleagues for their support of this important piece of legislation.

Mr. ROCKEFELLER. Mr. President, every 18 seconds a fire department somewhere in America responds to a fire. And sadly, in 2001, not including those killed in the terrorist attacks on September 11, there were almost 4,000 deaths in America resulting from fires, including the deaths of 99 firefighters. Obviously, the Government cannot prevent every tragedy. But when we can help, we ought to. That is why I am proud to introduce legislation today with my friend from Pennsylvania, Senator SANTORUM, that will create incentives for the installation of fire sprinkler systems, which are indisputably effective in limiting death and destruction by fires. The Fire Sprinkler Incentive Act of 2004 will make retrofit installation of fire sprinklers more affordable.

The National Fire Protection Association has no record of a fire killing more than two people in a building that had a properly installed and functioning sprinkler system. Less important than saving lives, but still important, sprinklers can dramatically reduce the property damage caused by fires. Because sprinkler systems are so successful, many jurisdictions require that newly constructed buildings be built with proper fire suppression technology.

Unfortunately, building codes for new construction cannot protect the many people who are living, working, or meeting in older buildings that do not have sprinklers. And because retrofitting buildings is so expensive few property owners can reasonably afford the upgrade. The legislation that the Senator from Pennsylvania and I are introducing today will provide some tax relief to property owners who are willing to make the investment in sprinkler systems that can save lives.

A business that operates nursing homes, for example, may not be able to afford to retrofit its older facilities without charging residents insupportable fees. The Fire Sprinkler Incentive Act will help ameliorate the costs of sprinkler installation by enabling property owners to depreciate the investment over a five-year period. This small change to the Tax Code can result in lives saved and property preserved.

I look forward to working with my colleagues to get this important legislation enacted.

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By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DEWINE, and Mr. DASCHLE):

S. 2863. A bill to authorize appropriations for the Department of Justice for fiscal years 2005, 2006, and 2007, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today along with my colleagues Senators LEAHY, DEWINE, and SCHUMER to introduce the ''Department of Justice Appropriations Authorization Act, fiscal years 2005 through 2007.'' I want to thank Senator LEAHY for his hard work on this bill. I also want to thank the House Judiciary Committee under the leadership of Chairman SENSENBRENNER for developing legislation upon which we have been able to build.

I am pleased that Congress passed a Department of Justice reauthorization bill last Congress for the first time in over two decades. The bill, however, did not address a number of authorities, including the Office of Justice

Programs. The bill we are introducing today authorizes and consolidates and makes permanent a host of appropriations authorities. These authorities are essential to the administration of the Department of Justice and its ability to accomplish its mission.

The Department of Justice's central duty is to provide security and justice for all Americans. I believe this legislation is essential to the Department's work in protecting America from future terrorist attacks. Importantly, the legislation will facilitate the Department's ability to continue providing much-needed assistance and advice to our state and local law enforcement.

I want to take a moment to highlight some of the more important provisions of this bill. Title I of the bill authorizes appropriations for the major components of the Department for fiscal year 2005 through fiscal year 2007. Among these authorizations are funding for Federal Bureau of Investigation and the newly created Terrorism Threat Integration Center to fight the war against terrorism, and the Drug Enforcement Administration to combat the trafficking of illegal drugs.

Title II of the bill restructures and authorizes many of the grant programs at the Department. Specifically, it restructures the Byrne and Local Law Enforcement Block Grant (LLEBG) programs and authorizes for the first time ever the Local Law Enforcement Block Grant. By merging these two programs into one Edward Byrne Memorial Justice Assistance Grant program (JAG), it will allow states to make one application for funds and streamline the process.

I want to take a moment and address the concern I have heard raised that the merger of these programs will somehow cause states to lose the assistance they rely upon. Although we have combined the funds into one program, we have kept the same purpose areas so that activities and programs funded currently under Byrne and LLEBG may continue to be eligible for funds under the JAG program. Additionally, the money allocated to the JAG program is set up to split the funds 50/50—fifty percent of the JAG funds are allocated in the same manner that Byrne grants are currently allocated, and fifty percent are allocated in the same manner that the LLEBG funds are currently allocated. Each state receives 0.25 percent of the overall funds. Then of the remaining funds, 50 percent is distributed based upon population, similar to the Byrne grants, and the other 50 percent is based on the violent crime rate, similar to the LLEBG. In other words, the JAG program is designed to address the same purposes of the Byrne and LLEBG programs, and funds are intended to be allocated in the same manner. The only difference is that those funds will now come from one pot of money—the JAG account.

That being said, I do share the concern that money for the one pot, the JAG account, will be reduced. I have supported full funding for Byrne and LLEBG grants in the past, and I will continue to support funding for the JAG program. For this reason, this legislation authorizes the JAG account to receive the total amount of funds that both the Byrne and LLEBG programs received in Fiscal Year 2003 plus a 2 percent increase. I am hopeful that the Appropriators will fund the new JAG program at the same level. In fact, one of the benefits of creating one new program is that it will help limit the earmarking of these grants, thus allowing meritorious programs to receive money that may have been previously allocated for some earmark.

In addition to the authorization of the JAG program, this legislation restructures the COPS program as one single block grant program covering all of its current purposes so local governments will need to file only one COPS application for any of these purposes. The bill reauthorizes the Boys and Girls Club of America, the Regional Information Sharing System (RISS), the Crime Free Rural States Grant program, the National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center. Further, the bill makes a number of important changes to grants that assist victims of crime and to the drug courts to enable these valuable programs to be more effective. *In addition, the legislation creates a new Office of Weed and Seed Strategies to replace the never-before authorized executive Office of Weed and Seed Strategies.

The bill includes the Prevention and Recovery of Missing Children Act and the Senior Safety Act to better protect our nation's most vulnerable citizens: our children and seniors. The Prevention and Recovery of Missing Children Act sets standards for the registration of sex offenders which will make our registration system more accurate and reliable. The Senior Safety Act enhances the penalties for crimes committed against seniors, including fraud and telemarketing fraud, and includes a provision to safeguard pensions from fraud and theft.

One of the keys to fighting terrorism is a tough arsenal of laws designed to target those who support or assist terrorists and their cause, such as those who launder money. This legislation includes the Combating Money Laundering and Terrorist Financing Act of 2004 which adds several provisions to the list of specified unlawful activities within the RICO statute that serve as predicate offenses under the money laundering statute. It adds a provision to the civil forfeiture statute to allow for the forfeiture of property outside U.S. territorial boundaries if the property was used in the planning of a terrorist act that occurred within the U.S. It also includes a parallel transaction provision which provides that all parts of a parallel or dependent financial transaction are considered a money laundering offense if one part of that transaction involves the proceeds of an unlawful activity.

This legislation also includes the Koby Mandell Act which creates within the DOJ an Office of Justice for Victims of Overseas Terrorism. The office will assume responsibility for the administration of the Rewards for Justice Program and its website. The office will offer rewards in an effort to capture terrorists involved in harming American citizens overseas. It will also provide other related services including sending U.S. officials to funerals of American victims of terrorism overseas.

This bill also contains important immigration provisions, including the PROMISE Act. The PROMISE Act is an immigration enforcement measure that amends the Immigration and Nationality Act so that those who fail to satisfy their child support obligations are ineligible to enter the United States. Further, those already in the United States will be ineligible for certain immigration benefits, such as citizenship.

This bill is a step in the right direction. I look forward to continuing to work with Senator LEAHY and the House Judiciary Committee to enact this legislation. I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

DOJ REAUTH SECTION BY SECTION

*Section 1. Short Title; Table of Contents*

Section 1 provides that the bill may be cited as the ''Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007'' and sets forth the table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

*Section 101. Authorization of Appropriations for Fiscal Year 2005*

Section 101 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2005. These sums are set out in 22 accounts. The numbers generally reflect the President's budget requests for the Department of Justice for Fiscal Year 2004 with a 2% inflation adjustment.

*Section 102. Authorization of Appropriations for Fiscal Year 2006*

Section 102 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2006. These sums are set out in 22 accounts. The numbers generally reflect the President's budget requests for the Department of Justice for Fiscal Year 2005 in Section 101 with a 2% inflation adjustment.

*Section 103. Authorization of Appropriations for Fiscal Year 2007*

Section 103 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2007. These sums are set out in 20 accounts. The numbers generally reflect the numbers for Fiscal Year 2006 in section 102 with a 2% inflation adjustment.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

*Section 201. Merger of Byrne Grant and Local Law Enforcement Block Grant Programs*

Section 201 merges the current Byrne Grant Program (both formula and discretionary) and the Local Law Enforcement Block Grant Programs into one new Edward Byrne Memorial Justice Assistance Grant Program. This will allow states and local governments to make one application for this money annually for a four-year term.

The formula for distributing these grants combines elements of the current Byrne and LLEBG formulas. For allocating money to the states, each state automatically receives 0.25% of the total.

Of the remaining amount, 50% is divided up among the states according to population (the method currently used under Byrne) and 50% is divided up based on the violent crime rate (the method currently used under LLEBG).

Each state's allocation is then divided among state and locals in the following manner. Sixty percent of the allocation goes to the state. Then, that 60% is divided between state and locals based on their relative percentages of overall criminal justice spending within the state. The state keeps its portion of the 60% and gives out the local portion in the state's discretion. This follows how Byrne formula grants are now done.

The remaining 40% of the state's allocation goes directly to the local governments from OJP. Each class of local governments (e.g., cities, counties, townships, etc.) gets a share based on its relative percentage of local criminal justice spending within the state. Within each class, the class's share is divided up between the local governments in that class based on their crime rate. This is similar to how LLEBG grants are now done.

The bill authorizes $1.075 billion for FY 2005 for the program which represents a 2% increase over the amount appropriated for both programs in Fiscal Year 2003. A new feature of the program is that states will be allowed to keep grant funds in interest bearing accounts until spent and then keep the interest. However, all money must be spent during the four-year grant period.

*Section 202. Clarification of Official To Be Consulted by Attorney General in Considering Application for Emergency Federal Law Enforcement Assistance*

Section 202 amends the Emergency Federal Law Enforcement Assistance program (42 U.S.C. Sec. 10501 et seq.) to clarify that in awarding grants under this program the Attorney General shall consult with the Assistant Attorney General for the Office of Justice Programs rather than the Director of the Office of Justice Assistance. This change simply brings the statute into conformity with the existing chain of command in the Department.

*Section 203. Clarification of Uses for Regional Information Sharing System Grants*

Section 203 amends the authorization for the Regional Information Sharing System (42 U.S.C. Sec. 3796h) to clarify its regional character and its authority to establish and maintain a secure telecommunications backbone.

*Section 204. Authorization of Appropriations for the Regional Information Sharing System Grants to facilitate Federal-State-Local Law Enforcement Response Related to Terrorist Attacks*

Section 204 reauthorizes the Regional Information Sharing System for FY 2005–2007 at $100 million each year.

*Section 205. Integrity and Enhancement of National Criminal Record Databases*

Section 205 amends the authorizing statute for the Bureau of Justice Statistics (42 U.S.C. Sec. 3732): (1) to clarify that the Director shall be responsible for the integrity of data and statistics and the prevention of improper or illegal use or disclosure; (2) to provide specific authorization for the already existing National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center and to facilitate state participation in these systems; and (3) to facilitate data-sharing agreements between the Bureau of Justice Statistics and other federal agencies.

*Section 206. Extension of Crime Free Rural States Grant Program*

Section 206 reauthorizes the Crime Free Rural States Grant program for FY 2005–2007.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

*Section 211. Office of Weed and Seed Strategies*

Section 211 creates a new Office of Weed and Seed Strategies. This office will replace the current Executive Office of Weed and Seed, and for the first time, this program will have a specific authorization.

Subtitle C—Assisting Victims of Crime

*Section 221. Grants to Local Nonprofit Organizations to Improve Outreach Services to Victims of Crime*

Section 221 amends the crime victim assistance grants program to allow grants of less than $10,000 to be made to smaller neighborhood and community-based victim service organizations. Currently, grants under this program tend to go to larger organizations, and this amendment simply emphasizes that some of the money spent in this program should go to smaller organizations as well.

*Section 222. Clarification and Enhancement of Certain Authorities Relating to Crime Victims Fund*

Section 222 makes several minor adjustments to the authorities relating to the Crime Victims Fund.

Subsection 222(1) clarifies that the fund may only accept gifts, donations, or bequests if they do not attach conditions inconsistent with applicable laws or regulations and if they do not require the expenditure of appropriated funds that are not available to the Office of Victims of Crime. Current law establishes a $50 million antiterrorism reserve within the fund. Each year that reserve may be replenished by using up to 5% of the money in the fund that was not otherwise expended during that year.

Subsection 222(2) permits replenishments of the Antiterrorism Emergency Reserve based upon amounts ''obligated'' rather than amounts actually ''expended'' in any given fiscal year.

Subsection 222(3) allows the Assistant Attorney General to direct the use of the funds available for Indian child abuse program grants under 42 U.S.C. Sec. 10601(g) and to use 5% of those funds for grants to Indian tribes to establish victim assistance programs.

Subsection 222(4) clarifies that the Antiterrorism Emergency Reserve may be replenished only once each fiscal year, rather than be continually replenished as amounts are obligated or expended. It also ensures that no AER funds are included in limitations on annual Crime Victims Fund obligations.

*Section 223. Amounts Received Under Crime Victim Grants May Be Used by State for Training Purposes*

Section 223 amends the grant programs for victim compensation and victim assistance to allow the states part of the reserved amount for administrative costs for training purposes.

*Section 224. Clarification of Authorities Relating to Violence Against Women Formula and Discretionary Grant Programs*

Section 224 makes several clarifications to the program to fund grants to combat violent crimes against women. Subsection 224(a) clarifies that grants may be used for victim services. Subsection 224(b) corrects an incorrect section number reference in last Congress' DOJ authorization bill. Subsection 224(c) clarifies that grants under the program can be made to Indian tribal domestic violence coalitions and corrects other technical errors and makes conforming changes. Subsection 224(d) changes the reporting requirement on the program from annual to biennial.

Subsection 224(e) clarifies that state and tribal governments may use grant funds under the program to pay for forensic medical exams for sexual assault victims so long as the victims are not required to seek reimbursement from their insurers. It further provides that the victim shall not be required to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for such exam, or both. Subsection 224(f) makes a technical amendment to the heading for this part of the Code.

*Section 225. Expansion of Grant Programs Assisting Enforcement of Domestic Violence Cases To Also Assist Enforcement of Sexual Assault Cases*

Section 225 amends the programs to provide grants to encourage domestic violence arrest policies and to provide assistance for rural domestic violence and child abuse enforcement to clarify that such grants can also be used to assist enforcement of sexual assault cases.

Subtitle D—Preventing Crime

*Section 231. Clarification of Definition of Violent Offender for Purposes of Juvenile Drug Courts*

Section 231 amends the juvenile drug court grant program so that offenders who are convicted of a violent misdemeanor may participate in the program. Currently, misdemeanor offenders may participate only if their offense is non-violent.

*Section 232. Eligibility for Grants Under Drug Court Grants Program Extended to Courts That Supervise Non-Offenders With Substance Abuse Problems*

Section 232 amends the drug court program to allow continuing supervision over nonviolent offenders as well as other related persons who may be before the court. This will allow a drug court to consolidate the cases of related individuals who may be under its jurisdiction at one time and supervise them jointly.

*Section 233. Terms of Residential Substance Abuse Treatment Program for Local Facilities*

Section 233 amends the Residential Substance Abuse Treatment for State Prisoners program to clarify that the grants should go to local correctional facilities and detention facilities where prisoners are held long enough to carry out a 3-month course of drug treatment.

*Section 234. Rural 9–1–1 Service*

Section 234 authorizes the Attorney General to provide grants for access to, and improvements on a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States.

*Section 235. Methamphetamine Cleanup*

Section 235 authorizes the Methamphetamine Cleanup program. The program funds the cleanup of methamphetamine laboratories and related hazardous waste, and provides additional contract personnel, equipment, and facilities to local governments.

*Section 236. National Citizens Crime Prevention Campaign*

Section 236 authorizes the National Citizens Crime Prevention Campaign for FY 2005–2007 and requires a 30% non-Federal match for all Federal funds.

*Section 237. SEARCH, the National Consortium for Justice Information and Statistics*

Section 237 authorizes the Bureau of Justice Assistance to award a grant to SEARCH, the National Consortium for Justice Information and Statistics to perform its functions under the direction of the Office of Justice Programs.

Subtitle E—Other Matters

*Section 241. Changes to Certain Financial Authorities*

Subsection 241 (a) raises from 3 to 6 percent the amount of money collected from civil debt collection activities that can be credited to the Working Capital Fund established under 28 U.S.C. Sec. 527.

Subsection 241 (b) exempts the Southwest Border Initiative from the requirement that it reimburse the Treasury for untimely payments and the requirement that it pay interest to states for untimely payments.

Subsections 241(c) and (d) update certain general law enforcement authorities of the Attorney General to include the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

*Section 242. Coordination Duties of Assistant Attorney General*

Subsection 242(a) amends the authorizing statute for OJP to include the Office for Victims of Crime within the list of OJP bureaus. Subsection 242(b) allows the Assistant Attorney General to place special conditions on all grants.

*Section 243. Repeal of Certain Programs*

Section 243 repeals seven grant programs that have been authorized, but have largely not been funded in recent years: the Criminal Justice Facility Construction Pilot Program; the Family Support Program; the Matching Grant Program for School Security; the Local Crime Prevention Block Grant Program; the Assistance for Delinquent and At-Risk Youth Program; and the Improved Training and Technical Automation Program; the Other State and Local Aid Program.

*Section 244. Elimination of Certain Notice and Hearing Requirements*

Section 244 eliminates the requirement that OJP must provide notice and a hearing for grant applicants whose applications are denied. It further eliminates the opportunity for appellate review of the decisions arising from such hearings. These rights are rarely used.

*Section 245. Amended Definitions for Purposes of Omnibus Crime Control and Safe Streets Act of 1968*

Section 245 broadens the definition of the term ''Indian Tribe'' to allow more tribes to be treated as units of local government for purposes of OJP grants. It broadens the definition of the term ''combination'' of State and local governments to include those who jointly plan. It amends the definition of the term ''neighborhood or community-based organizations'' to clarify that it includes faith-based organizations.

*Section 246. Clarification of Authority To Pay Subsistence Payments to Prisoners for Health Care Items and Services*

Under current law, the Attorney General is required to pay for health care items and services for certain prisoners in the custody of the United States. In every instance, he must not pay more than the lesser of what the Medicare or Medicaid program would pay. This requires the Attorney General to expend a great deal of effort to determine that in each case. This subsection changes that to simply say that he shall not pay more than the Medicare rate. It also substitutes the Department of Homeland Security for a reference to the now defunct Immigration and Naturalization Service.

*Section 247. Consolidation of Financial Management Systems of Office of Justice Programs*

Section 247 requires the Assistant Attorney General of the Office of Justice Programs to make two significant financial management reforms: (1) consolidate all accounting activities of OJP into a single financial management system under the direct management of the Office of the Comptroller by September 30, 2010, and (2) consolidate all procurement activities of OJP into a single procurement system under the direct management of the Office of Administration by September 30, 2007.

The Assistant Attorney General is required to begin the consolidation of accounting activities under the Office of the Comptroller and the consolidation of procurement activities under the Office of Administration not later than October 1, 2003. The Office of Administration is to begin the consolidation of procurement operations and financial management systems into a single financial system not later than September 30, 2005.

*Section 248. Authorization and Change of COPS program to single grant program*

Section 248 reauthorizes the COPS program while restructuring it as one single block grant program covering all of its current purposes so local governments will need only to file one COPS application for any of these purposes.

*Section 249. Enhanced Assistance for Criminal Investigations and Prosecutions by State and Local Law Enforcement Officials*

Section 249 enhances assistance for criminal investigations and prosecutions by requiring the Attorney General to provide federal assistance upon request by a state, local or Indian tribe governments.

TITLE III—COMBATING MONEY LAUNDERING AND TERRORIST FINANCING ACT OF 2004

*Section 301. Short Title*

Section 301 authorizes that this bill may be cited as the ''Combating Money Laundering and Terrorist Financing Act of 2003''.

*Section 302. Specified Activities for Money Laundering*

Amends the Racketeer Influenced and Corrupt Organizations Act (RICO) to expand its scope to cover acts or threats involving burglary, embezzlement, and fraud in the purchase of securities. Modifies provisions regarding: (1) the laundering of monetary instruments to include violations of the Social Security Act relating to obtaining funds through misuse of a social security number, to grant authority to the Secretary of Homeland Security and the Commissioner of Social Security over offenses within their jurisdictions, and to cover certain informal transfers of the proceeds of specified unlawful activity; and (2) engaging in monetary transactions in property derived from specified unlawful activity to grant authority to the Secretary over offenses within his jurisdiction.

*Section 303. Illegal Money Transmitting Businesses*

Changes the name of a money transmitting business the operation of which is prohibited from an ''unlicensed'' to an ''illegal'' money transmitting business. Specifies that such a business shall be illegal if it fails to comply with money transmitting business registration requirements (current law), whether or not the defendant knew that the operation was required to comply with such requirements. Authorizes the Attorney General, the Secretary of the Treasury, and the Secretary of Homeland Security to investigate violations regarding such businesses.

*Section 304. Assets of Persons Committing Terrorist Acts Against Foreign Countries or International Organizations*

Amends the Federal criminal code to provide for civil forfeiture of the assets of individuals or entities engaging in planning or perpetrating any act of international terrorism against any international organization or foreign government.

*Section 305. Money Laundering through Informal Value Transfer Systems*

Section 305 amends the Federal criminal code to include as money laundering unlawful transactions where one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.

*Section 306. Technical Corrections to Financing of Terrorism Statute*

Section 306 amends 18 USC 2339(c) to change the definition of concealment and other minor changes.

*Section 307. Miscellaneous and Technical Amendments*

Section 307 amends 18 USC 982(b), 18 USC 1510(b)(3)(B) and adds technical amendments Sections 1956, 1957.

*Section 308. Extension of the Money Laundering and Financial Crimes Strategy Act of 1998*

Reauthorizes the Money Laundering and Financial Crimes Strategy Act of 1998 through years 2004, 2005, and 2006.

TITLE IV—PREVENTION AND RECOVERY OF MISSING CHILDREN ACT OF 2004

*Section 401. Short Title*

This Title may be called the ''Prevention and Recovery of Missing Children Act of 2004.''

*Section 402. Findings*

*Section 403. Missing Child Reporting Requirements*

Section 403 stops the practice of removing a missing child entry from the NCIC database when the child reaches age 18 to increase the chances for child recovery and investigative information available for other cases. It also requires that a missing child be entered into NCIC within 2 hours of receipt.

*Section 404. Standards for Sex Offender Registration Programs*

Section 404 requires that (1) a state register sex offenders before they are released from prison; (2) the registering agency obtain current fingerprints and a photograph (annually), as well as a DNA sample, from an offender at the time of registration; (3) registrants obtain either a driver's license or an identification card from the department of motor vehicles; (4) registration changes occur within 10 days of the changes taking effect; (5) all registered sex offenders verify their registry information every 90 days; and (6) states inform another state when a known registered person is moving into its jurisdiction. This section also creates a felony designation for the crime of non-compliance with the registration requirements.

*Section 405. Effective Date*

The provisions in this title will go into effect 2 years after this bill is signed into law.

TITLE V—BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 2004

*Section 501. Short Title*

This title may be called the ''Bulletproof Vest Partnership Grant Act of 2004.''

*Section 502. Authorization of Appropriations*

Amends the Omnibus Crime Control and Safe Streets Act of 1968 to extend through FY 2007 the authorization of appropriations for the Bulletproof Vest Partnership Grant Program (a matching grant program which helps State, tribal, and local jurisdictions purchase armor vests for use by law enforcement officers).

TITLE VI—PACT ACT

*Section 601. Short Title*

This title may be called the ''Prevent All Cigarette Trafficking Act'' or ''PACT Act.''

*Section 602. Collection of State Cigarette Taxes*

This section increases the ability of state, local, and tribal governments to collect excise taxes from cigarette and smokeless tobacco sales by strengthening the Jenkins Act, which requires reporting of interstate cigarette sales. Jenkins now explicitly includes cigarette and smokeless tobacco sales made via phone, Internet or mail. Delivery sellers must report interstate sales, including those to distributors, to state, local, and tribal governments, as well as list all Jenkins requirements on the bill of lading, and maintain records of all delivery sales. Delivery sales may not be made until excise tax stamps are applied. Violators of Jenkins are subject to felony prosecution and civil penalties. State, local and tribal governments, as well as tobacco manufacturers may prevent and restrain violations of Jenkins in U.S. district courts, in addition to their respective jurisdictions.

*Section 603. Treatment of Cigarettes as Nonmailable Matter*

This section prohibits a person from sending cigarettes and smokeless tobacco via the U.S. Postal Service in the continental United States.

*Section 604. Penal Provisions Regarding Trafficking in Contraband Cigarettes*

Under the amended Contraband Cigarette Trafficking Act (''CCTA''), the threshold amount of non-excise tax-paid cigarettes is lowered to 10,000. CCTA covers smokeless tobacco if the quantity exceeds 500 single-units. Monthly reports must be filed detailing transactions and inventory with the Attorney General and Secretary of Treasury, as well as with state and tribal authorities as appropriate, if monthly delivery sales exceed these contraband thresholds. Seized cigarettes and smokeless tobacco may be used for undercover law enforcement operations. State, local and tribal governments, as well as tobacco manufacturers may prevent and restrain violations of the CCTA in U.S. district courts, in addition to their respective jurisdictions.

*Section 605. Compliance with Model Statute or Qualifying Statute*

This section prohibits tobacco manufacturers and importers from participating in transactions occurring in states party to the Master Settlement Agreement (''MSA''), which involve cigarettes manufactured by companies that are not in compliance with the ''qualifying statute'' of the particular MSA state. These statutes require that states neutralize the cost disadvantages of the manufacturers that entered into the MSA due to their escrow payments. State attorneys general may bring actions in the United States district courts to prevent and restrain violations of this section.

*Section 606. Undercover Criminal Investigations of the Bureau of Alcohol, Tobacco, Firearms and Explosives*

This section grants BATFE the authority to offset expenses incurred in undercover operations by revenue obtained from the same operation. This will enhance their ability to conduct sting operations. BATFE is also empowered to inspect the records and premises of those who ship, sell, distribute, or receive in interstate commerce any quantity in excess of the contraband threshold, within a single month.

*Section 607. Inspection by the Bureau of Alcohol, Tobacco, Firearms and Explosives of Records of Certain Cigarette Sellers*

This section empowers the BATFE to inspect the records and premises of those who ship, sell, distribute, or receive in interstate commerce any quantity in excess of the contraband threshold, within a single month.

*Section 608. Compliance with Tariff Act of 1930*

*Section 609. Exclusions Regarding Indian Tribes and Tribal Matters*

*Section 610. Effective Date*

The new authority granted to the BATFE is effective immediately. All other changes are effective 90 days after enactment.

TITLE VII—CREATE ACT

*Section 701. Short Title*

Section 701 authorizes that this bill may be cited as the ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004.''

*Section 702. Collaborative Efforts on Claimed Inventions*

Section 702 amends Federal patent and trademark law to deem subject matter developed by another person and a claimed invention to have been owned by the same person or subject to an obligation of assignment to the same person, for purposes of provisions that treat inventions of a common owner similarly to inventions made by a single person, if: (1) the claimed invention was made by or on behalf of parties to a joint research agreement (agreement) that was in effect on or before the date the claimed invention was made; (2) the claimed invention was made as a result of activities undertaken within the scope of the agreement; and (3) the application for patent for the claimed invention discloses, or is amended to disclose, the names of the parties to the agreement.

*Section 703. Effective Date*

Section 703 applies the CREATE Act to any patents issued after its enactment and does not apply to any pending action before the courts or the Patent and Trademark Office.

TITLE VIII—PROTECTING INTELLECTUAL RIGHTS AGAINST THEFT AND EXPROPRIATION ACT OF 2004

*Section 801. Short Title*

Section 801 authorizes that this bill may be cited as the ''Protecting Intellectual Rights Against Theft and Expropriation Act of 2004''.

*Section 802. Authorization of Civil Copyright Enforcement by Attorney General*

Section 802 amends Federal copyright law to authorize the Attorney General (AG) to: (1) commence a civil action against any person who engages in conduct constituting copyright infringement; (2) collect damages and profits resulting from such infringement; and (3) collect

*Section 803. Authorization of Funding for Training and Pilot Program*

Section 803 directs the Attorney General to: (1) develop a program to ensure effective implementation and use of the authority for civil enforcement of the copyright laws, including training programs for qualified personnel from the Department of Justice and United States Attorneys Offices; and (2) report annually to Congress on the use of such enforcement authority and progress made in implementing the training programs.

Authorizes appropriations for FY 2005.

TITLE IX—KOBY MANDELL ACT OF 2004

*Section 901. Short Title*

*Section 902. Definitions*

*Section 903. Establishment of an Office of Justice for Victims of Overseas Terrorism in the Department of Justice*

Section 903 creates within the DOJ an Office of Justice for Victims of Overseas Terrorism which will assume the responsibility for administration of the Rewards for Justice Program and its website. These offices will offer rewards to capture all terrorists involved in harming American citizens overseas as well as other related services including sending US officials to funerals of American victims of terrorism overseas.

Included in this section are reporting requirements to Congress and monitoring of actions by governments and regimes pertaining to terrorists who have harmed American citizens. This section also requires the Office to initiate negotiations to secure compensation for American citizens or their families who were harmed by organizations who claim responsibility for the acts of terrorism.

The Office will also be required to monitor the incarceration abroad of terrorists who have harmed American citizens overseas to ensure their incarceration is similar to that condition of incarceration in the United States. As well, this section requires that all terrorists who have harmed Americans overseas are treated by the US government as persona non grata.

*Section 904. Authorization of Appropriations*

Section 904 authorizes for 2005–2007 such sums as may be necessary to carry out this title.

TITLE X—SENIOR SAFETY ACT OF 2004

*Section 1001. Short Title*

The title may be cited as the ''Seniors Safety Act of 2004.''

*Section 1002. Findings and Purposes*

This section enumerates 14 findings on the incidence of crimes against seniors, the large percentages of seniors who can expect to spend time in nursing homes, the amount of Federal money spent on nursing home care and the estimated losses due to fraud and abuse in the health care industry.

The purposes of the Act are to enhance safeguards for pension plans and health benefit programs, prevent and deter criminal activity that results in economic and physical harm to seniors, and ensure appropriate restitution.

*Section 1003. Definitions*

Definitions are provided for the following terms: (1) ''Crime'' is defined as any criminal offense under Federal or State law; and (2) ''Senior'' is defined as an individual who is older than 55.

Subtitle A—Combating Crimes Against Seniors

*Section 1011. Enhanced Sentencing Penalties Based on Age of Victim*

Directive to the United States Sentencing Commission. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines applicable to the age or a victim.

*Section 1012. Study and Report on Health Care Fraud Sentences*

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines applicable to health care fraud offenses.

(b) REQUIREMENTS. During its review, the Sentencing Commission shall: ensure that the guidelines reflect the serious harms associated with health care fraud and the need for law enforcement to prevent such fraud;

consider enhanced penalties for persons convicted of health care fraud; consult with representatives of industry, judiciary, law enforcement, and victim groups; account for mitigating circumstances; assure reasonable consistency with other relevant directives and guidelines; make any necessary conforming changes; and assure that the guidelines adequately meet the purposes of sentencing.

(c) REPORT. The Sentencing Commission shall report the results of the review required under (a) and include any recommendations for retention or modification of the current penalty levels for health care fraud offenses, by December 31, 2004.

*Section 1013. Increased Penalties for Fraud Resulting in Serious Injury or Death*

This section increases the penalties under the mail fraud statute, 18 U.S.C. §1341, and the wire fraud statute, 18 U.S.C. §1343, for fraudulent schemes that result in serious injury or death. Existing law provides such an enhancement for a narrow class of health care fraud schemes (see 18 U.S.C. 1347). This provision would extend this penalty enhancement to other forms of fraud under the mail and wire fraud statutes that result in death or serious injury. The maximum penalty if serious bodily harm occurred would be up to twenty years; if a death occurred, the maximum penalty would be a life sentence.

*Section 1014. Safeguarding Pension Plans From Fraud and Theft*

(a) IN GENERAL. This section would add new section 1351 to title 18, United States Code.

§1351: Fraud in Relation to Retirement Arrangements.

(a) This section defines retirement arrangements and provides an exception for plans established by the Employee Retirement Income Security Act (ERISA).

(b) This section punishes, with up to ten years' imprisonment, the act of defrauding retirement arrangements, or obtaining by means of false or fraudulent pretenses money or property of any retirement arrangement. Retirement arrangements would include employee pension benefit plans under the Employee Retirement Income Security Act (ERISA), qualified retirement plans under section 4974(c) of the Internal Revenue Code (IRC), medical savings accounts under section 220 of the IRC, and funds established within the Thrift Savings Fund. This provision is modeled on existing statutes punishing bank fraud (see 18 U.S.C. §1344) and health care fraud (see 18 U.S.C. §1347). Any government plan defined under section 3(32) of title I of the ERISA, except funds established by the Federal Retirement Thrift Investment Board, is exempt from this section.

(c) The Attorney General is given authority to investigate offenses under the new section, but this authority expressly does not preclude other appropriate Federal agencies, including the Secretary of Labor, from investigating violations of ERISA.

(b) CONFORMING AMENDMENT. The table of sections for chapter 63 of title 18 United States Code, is modified to list new section "1351. Fraud in relation to retirement arrangements."

*Section 1015. Additional Civil Penalties for Defrauding Pension Plans*

(a) IN GENERAL. This section would authorize the Attorney General to bring a civil action for a violation, or conspiracy to violate, new section 18 U.S.C. §1351, relating to retirement fraud. Proof of such a violation established by a preponderance of the evidence would subject the violator to a civil penalty of the greater of the amount of pecuniary gain to the offender, the pecuniary loss to the victim, or up to $50,000 in the case of an individual, or $100,000 for an organization. Imposition of this civil penalty has no effect on other possible remedies.

(b) EXCEPTION. No civil penalties would be imposed for conduct involving an employee pension plan subject to penalties under ERISA, 29 U.S.C. §1132.

(c) DETERMINATION OF PENALTY AMOUNT. In determining the amount of the penalty, the court is authorized to consider the effect of the penalty on the violator's ability to restore all losses to the victims and to pay other important tax or criminal penalties.

*Section 1016. Punishing Bribery and Graft in Connection with Employee Benefit Plans*

This section would amend section 1954 of title 18, United States Code, by changing the title to "Bribery and graft in connection with employee benefit plans," and increasing the maximum penalty for bribery and graft in regard to the operation of an employee benefit plan from 3 to 5 years imprisonment. This section also broadens existing law under section 1954 to cover corrupt attempts to give or accept bribery or graft payments, and to proscribe bribery or graft payments to persons exercising de facto influence or control over employee benefit plans. Finally, this amendment clarifies that a violation under section 1954 requires a showing of corrupt intent to influence the actions of the recipient of the bribe or graft.

Subtitle B—Preventing Telemarketing Fraud

*Section 1021. Centralized Complaint and Consumer Education Service for Victims of Telemarketing Fraud*

(a) CENTRALIZED SERVICE. This section directs the Commissioner of the Federal Trade Commission to log the receipt of calls complaining about telemarketing fraud and provide information on telemarketing fraud to such individuals. The FTC is also authorized to provide civil or criminal law enforcement information about specific companies.

(b) FRAUD CONVICTION DATA. The Attorney General is directed to provide information about corporations and companies that are the subject of civil or criminal law enforcement action for telemarketing fraud, under Federal and state law, to the FTC in electronic format, so that the FTC can enter the information into a database maintained in accordance with section (a).

(c) AUTHORIZATION OF APPROPRIATIONS. Authorization is provided for such sums as are necessary to carry out the section.

*Section 1022. Blocking of Telemarketing Scams*

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES. Section 2325 of title 18, United States Code, is amended by replacing the term "telephone calls" with "wire communication utilizing a telephone service" to clarify that telemarketing fraud schemes executed using cellular telephone services are subject to the enhanced penalties for such fraud under 18 U.S.C. §2326.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD. This section adds new section 2328 to title 18, United States Code, to authorize the termination of telephone service used to carry on telemarketing fraud, and is similar to the legal authority provided under 18 U.S.C. §1084(d), regarding termination of telephone service used to engage in illegal gambling. The new section 2328 requires telephone companies, upon notification in writing from the Department of Justice that a particular phone number is being used to engage in fraudulent telemarketing or other fraudulent conduct, and after notice to the customer, to terminate the subscriber's telephone service. The common carrier is exempt from civil and criminal penalties for any actions taken in compliance with any notice received from the Justice Department under this section. Persons affected by termination may seek an appropriate determination in Federal court that the service should not be discontinued or removed, and the court may direct the Department of Justice to present evidence supporting the notification of termination. Definitions are provided for "wire communication facility" and "reasonable notice to the subscriber."

TITLE XI—FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2004

*Section 1101. Short Title*

This title may be called the "Federal Prosecutors Retirement Benefit Equity Act."

*Section 1102. Retirement Treatment of Federal Prosecutors*

Amends the definition of law enforcement officer to include prosecutors for retirement purposes.

*Section 1103. Provisions Relating to Incumbents*

Defines "federal prosecutor" to include assistant United States Attorneys and attorneys at the Department of Justice designated by the Attorney General under the conditions set out in this title. The change takes effect upon enactment of the bill. This section also sets a time limit for the attorneys to elect to opt out.

*Section 1104. Department of Justice Administrative Actions*

Directs the Attorney General to consult with the Office of Personnel Management on this title and make regulations.

TITLE XII—ANTI-ATROCITY ALIEN DEPORTATION ACT OF 2004

*Section 1201. Short Title*

This title may be cited as the "Anti-Atrocity Alien Deportation Act of 2004."

*Section 1202. Inadmissibility and Deportability of Aliens Who Have Committed Acts of Torture or Extrajudicial Killing Abroad*

Currently, the Immigration and Nationality Act (INA) provides that (i) participants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, and (ii) aliens who engaged in genocide, are inadmissible to the United States. See 8 U.S.C. §1182(a)(3)(E)(i) and (ii). Current law also provides that aliens who have participated in Nazi persecutions or engaged in genocide are deportable. See §1227(a)(4)(D). The bill would amend these sections of the INA by expanding the grounds for inadmissibility and deportation to cover aliens who have committed, ordered, incited, assisted, or otherwise participated in the commission of acts of torture or extrajudicial killing abroad and clarify and expand the scope of the genocide bar.

Subsection (a) would first amend the definition of "genocide" in clause (ii) of section 212(a)(3) of the INA, 8 U.S.C. 1182(a)(3)(E)(ii). Currently, the ground of inadmissibility relating to genocide refers to the definition in the Convention on the Prevention and Punishment of the Crime of Genocide. Article III of that Convention punishes genocide, the conspiracy to commit genocide, direct and public incitement to commit genocide, attempts to commit genocide, and complicity in genocide. The bill would modify the definition to refer instead to the "genocide" definition in section 1091 (a) of title 18, United States Code, which was adopted to implement United States obligations under the Convention and also prohibits attempts and conspiracies to commit genocide.

Specifically, section 1091 (a) defines genocide as "whoever, whether in time of peace or in time of war, . . . with the specific intent to destroy, in whole or in substantial

part, a national, ethnic, racial or religious group as such: (1) kills members of that group; (2) causes serious bodily injury to members of that group; (3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques; (4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part; (5) imposes measures intended to prevent births within the group; or (6) transfers by force children of the group to another group.'' This definition includes genocide by public or private individuals in times of peace or war. While the federal criminal statute is limited to those offenses committed within the United States or offenders who are U.S. nationals, see 18 U.S.C. 1091(d), the grounds for inadmissibility in the bill would apply to such offenses committed outside the United States that would otherwise be a crime if committed within the United States or by a U.S. national.

In addition, the bill would broaden the reach of the inadmissibility bar to apply not only to those who ''engaged in genocide,'' as in current law, but also to cover any alien who has ordered, incited, assisted or otherwise participated in genocide abroad. This broader scope will ensure that the genocide provision addresses a more appropriate range of levels of complicity.

Second, subsection (a) would add a new clause to 8 U.S.C. §1182(a)(3)(E) that would trigger operation of the inadmissibility ground if an alien has ''committed, ordered, incited, assisted, or otherwise participated in'' acts of torture, as defined in section 2430 of title 18, United States Code, or extrajudicial killings, as defined in section 3(a) the Torture Victim Protection Act. The statutory language—''committed, ordered, incited, assisted, or otherwise participated in''—is intended to reach the behavior of persons directly or personally associated with the covered acts, including those with command responsibility. Command responsibility holds a commander responsible for unlawful acts when (1) the forces who committed the abuses were subordinates of the commander (i.e., the forces were under his control either as a matter of law or as a matter of fact); (2) the commander knew, or, in light of the circumstances at the time, should have known, that subordinates had committed, were committing, or were about to commit unlawful acts; and (3) the commander failed to prove that he had taken the necessary and reasonable measures to (a) prevent or stop subordinates from committing such acts, or (b) investigate the acts committed by subordinates in a genuine effort to punish the perpetrators. Attempts and conspiracies to commit these crimes are encompassed in the ''otherwise participated in'' language. This language addresses an appropriate range of levels of complicity for which aliens should be held accountable, and has been the subject of extensive judicial interpretation and construction. See *Fedorenko* v. *United States*, 449 U.S. 490, 514 (1981); *Kalejs* v.*INS*, 10 F.3d 441, 444 (7th Cir. 1993); *U.S.* v. *Schmidt*, 923 F. 2d 1253, 1257–59 (7th Cir. 1991); *Kulle* v. *INS*, 825 F. 2d 1188, 1192 (7th Cir. 1987).

The definitions of ''torture'' and ''extrajudicial killing'' are contained in the Torture Victim Protection Act, which served as the implementing legislation when the United States joined the United Nations' ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.'' This Convention entered into force with respect to the United States on November 20, 1992 and imposes an affirmative duty on the United States to prosecute torturers within its jurisdiction. The Torture Victim Protection Act provides both criminal liability and civil liability for persons who, acting outside the United States and under actual or apparent authority, or color of law, of any foreign nation, commit torture or extrajudicial killing.

The criminal provision passed as part of the Torture Victim Protection Act defines ''torture'' to mean ''an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.'' 18 U.S.C. §2340(1). ''Severe mental pain or suffering'' is further defined to mean the ''prolonged mental harm caused by or resulting from (A) the intentional infliction or threatened infliction of severe physical pain or suffering; (B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and (C) the threat of imminent death; or (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.'' 18 U.S.C. §2340(2).

The bill also incorporates the definition of ''extrajudicial killing'' from section 3(a) of the Torture Victim Protection Act. This law establishes civil liability for wrongful death against any person ''who, under actual or apparent authority, or color of law, of any foreign nation . . . subjects an individual to extrajudicial killing,'' which is defined to mean ''a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.''

Both definitions of ''torture'' and ''extrajudicial killing'' require that the alien be acting under color of law. A criminal conviction, criminal charge or a confession are not required for an alien to be inadmissible or removable under the new grounds added in this subsection of the bill.

The final paragraph in subsection (a) would modify the subparagraph heading to clarify the expansion of the grounds for in admissibility from ''participation in Nazi persecution or genocide'' to cover ''torture or extrajudicial killing.''

Subsection (b) would amend section 237(a)(4)(D) of the INA, 8 U.S.C. §1227(a)(4)(D), which enumerates grounds for deporting aliens who have been admitted into or are present in the United States. The same conduct that would constitute a basis of inadmissibility under subsection (a) is a ground for deportability under this subsection of the bill. Under current law, assisting in Nazi persecution and engaging in genocide are already grounds for deportation. The bill would provide that aliens who have committed any act of torture or extrajudicial killing would also be subject to deportation. In any deportation proceeding, the burden would remain on the government to prove by clear and convincing evidence that the alien's conduct brings the alien within a particular ground of deportation.

Subsection (c) regarding the ''effective date'' clearly states that these provisions apply to acts committed before, on, or after the date this legislation is enacted. These provisions apply to all cases after enactment, even where the acts in question occurred or where adjudication procedures within the Department of Homeland Security (DHS) or the Executive Office of Immigration Review were initiated prior to the time of enactment.

*Section 1203. Inadmissibilty and Deportability of Foreign Government Officials Who Have Committed Particularly Severe Violations of Religious Freedom*

This section of the bill would amend section 212(a)(2)(G) of the INA, 8 U.S.C. §1182(a)(2)(G), which was added as part of the International Religious Freedom Act of 1998 (IFRA), to expand the grounds for inadmissibility and deportability of aliens who commit particularly severe violations of religious freedom. Current law bars the admission of an individual who, while serving as a foreign government official, was responsible for or directly carried out particularly severe violations of religious freedom within the last 24 months. 8 U.S.C. §1182(c)(2)(G). The existing provision also bars from admission the individual's spouse and children, if any. ''Particularly severe violations of religious freedom'' is defined in section 3 of IFRA to mean systematic, ongoing, egregious violation of religious freedom, including violations such as (A) torture or cruel, inhuman, or degrading treatment or punishment; (B) prolonged detention without charges; (C) causing the disappearance of persons or clandestine detention of those persons; or (D) other flagrant denial of the right to life, liberty, or the security of persons. While IRFA contains numerous provisions to promote religious freedom and prevent violations of religious freedom throughout the world, including a wide range of diplomatic sanctions and other formal expressions of disapproval, section 212 (a)(2)(G) is the only provision which specifically targets individual abusers.

Subsection (a) would delete the 24–month restriction in section 212 (a)(2)(G) since it limits the accountability, for purposes of admission, to a two-year period. This limitation is not consistent with the strong stance of the United States to promote religious freedom throughout the world. Individuals who have committed particularly severe violations of religious freedom should be held accountable for their actions and should not be admissible to the United States regardless of when the conduct occurred.

In addition, this subsection would amend the law to remove the current bar to admission for the spouse or children of a foreign government official who has been involved in particularly severe violations of religious freedom. The bar of inadmissibility is a serious sanction that should not apply to individuals because of familial relationships that are not within an individual's control. None of the other grounds relating to serious human rights abuse prevent the spouse or child of an abuser from entering or remaining lawfully in the United States. Moreover, the purpose of these amendments is to make those who have participated in atrocities accountable for their actions. That purpose is not served by holding the family members of such individuals accountable for the offensive conduct over which they had no control.

Subsection (b) would amend section 237(a)(4) of the INA, 8 U.S.C. §1227(a)(4), which enumerates grounds for deporting aliens who have been admitted into or are present in the United States, to add a new clause (E), which provides for the deportation of aliens described in subsection (a) of the bill.

The bill does not change the effective date for this provision set forth in the original IFRA, which applies the operation of the amendment to aliens ''seeking to enter the United States on or after the date of the enactment of this Act.''

*Section 1204. Waiver of Inadmissibility*

Under current law, most aliens who are otherwise inadmissible may receive a waiver

under section 212(d)(3) of the INA to enter the nation as a nonimmigrant, where the Secretary of State recommends it and the Attorney General approves. Participants in Nazi persecutions or genocide, however, are not eligible for such a waiver. Our bill retains that prohibition. It does allow for the possibility, however, of waivers for those who commit acts of torture or extrajudicial killings.

*Section 1205. Bar to Good Moral Character, Asylum and Refugee Status, and Withholding of Removal for Aliens Who Have Committed Acts of Torture, Extrajudicial Killings, or Severe Violations of Religious Freedom*

This section of the bill would amend section 101 (f) of the INA, 8 U.S.C. §1101(f), which defines ''good moral character,'' to make clear that aliens who have committed torture, extrajudicial killing, or severe violation of religious freedom abroad do not qualify. Good moral character is a prerequisite for certain forms of immigration relief, including naturalization, cancellation of removal for nonpermanent residents, and voluntary departure at the conclusion of removal proceedings. Aliens who have committed torture or extrajudicial killing, or severe violations of religious freedom abroad cannot establish good moral character. Accordingly, this amendment prevents aliens covered by the amendments made in sections 2 and 3 of the bill from becoming United States citizens or benefiting from cancellation of removal or voluntary departure. Absent such an amendment there is no statutory bar to naturalization for aliens covered by the proposed new grounds for inadmissibility and deportation.

It would also make aliens who are inadmissible under section 212(a)(3)(E) of the INA, 8 U.S.C. 1182(a)(3)(E), ineligible for asylum, refugee status, or withholding of removal.

*Section 1206. Establishment of the Office of Special Investigations*

Attorney General Civiletti established OSI in 1979 within the Criminal Division of the Department of Justice, consolidating within it all ''investigative and litigation activities involving individuals, who prior to and during World War II, under the supervision of or in association with the Nazi government of Germany, its allies, and other affiliatated [sic] governments, are alleged to have ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.'' (Att'y Gen. Order No. 85179). The OSI's mission continues to be limited by that Attorney General Order.

Subsection (a) would first amend the INA, 8 U.S.C. §1103, by directing the Attorney General to establish an Office of Special Investigations within the Department of Justice with authorization to denaturalize any alien who has participated in Nazi persecution, genocide, torture or extrajudicial killing abroad. This would not only provide statutory authorization for OSI, but also expand OSI's current authorized mission beyond Nazi war criminals.

The second part of this subsection would require the Attorney General to consult with the Secretary of the Department of Homeland Security before making decisions about prosecution or extradition of the aliens covered by this bill. The third part of this subsection sets forth specific considerations in determining the appropriate legal action to take against an alien who has participated in Nazi persecution, genocide, torture or extrajudicial killing abroad. Significantly, in order to fulfill the United States' obligation under the ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment'' to hold accountable torturers found in this country, the bill expressly directs the Department of Justice to consider the availability of prosecution under United States laws for any conduct that forms the basis for removal and denaturalization. In addition, the Department is directed to consider extradition to foreign jurisdictions that are prepared to undertake such a prosecution. Statutory and regulatory provisions to implement Article 3 of the Convention Against Torture, which prohibits the removal of any person to a country where he or she would be tortured, must also be part of this consideration.

Subsection (b) authorizes additional funds for these expanded duties to ensure that OSI fulfills its continuing obligations regarding Nazi war criminals.

*Section 1207. Reports on Implementation of the Act*

This section of the bill would direct the Attorney General, in consultation with the Homeland Security Secretary, to report within six months on implementation of the Act, including procedures for referral of matters to OSI, any revisions made to INS forms to reflect amendments made by the bill, and the procedures developed, with adequate due process protection, to obtain sufficient evidence and determine whether an alien is deemed inadmissible under the bill.

It also requires the Attorney General and the DHS Secretary to report annually on the number of criminal investigations and prosecutions undertaken pursuant to the Act, the number of persons removed from or denied admission to the United States pursuant to the Act, and the nationality of those persons.

TITLE XIII—PROMISE ACT

*Section 1301. Short Title*

This title may be called the ''Parental Responsibility Obligations Met through Immigration System Enforcement Act'' or ''PROMISE Act''.

*Section 1302. Aliens Ineligible to Receive Visas and Excluded from Admission for Non-Payment of Child Support*

Section 1302 amends INA §212(a) so that aliens who are in violation of court order to pay child support are inadmissible. This section defines child support order to include orders from a court in the United States as well as any foreign country, if a reciprocity agreement exists between that country and the United States or any individual State. The applicant for admission may become admissible by satisfying the outstanding child support debt, or by entering into an approved payment arrangement.

*Section 1303. Authority to Parole Aliens Excluded from Admission for Non-Payment of Child Support*

Section 1303 allows for the alien's physical return to the United States in the event that it is crucial to his ability to pay child support, the Secretary of DHS may parole the alien, but the alien will be subject to removal until he meets his support obligations.

*Section 1304. Effect of Non-Payment of Child Support on Establishment of Good Moral Character*

Section 1304 amends INA §101(f) so that an alien who is not in compliance with a court order to pay child support does not possess good moral character. This provision includes agreements in the United States and in any foreign country, if a reciprocity agreement exists between that country and the United States or any individual State. The alien would be unable to obtain certain immigration benefits, the most important of which is U.S. citizenship, without being able to demonstrate statutory good moral character.

*Section 1305. Authorization to Serve Legal Process in Child Support Cases on Certain Visa Applicants and Arriving Aliens*

Section 1305 authorizes immigration officers to serve on any alien seeking admission to the United States legal process with respect to any action to enforce or to establish a legal obligation of an individual to pay child support.

*Section 1306. Authorization to Obtain Information on Child Support Payments by Aliens*

Section 1306 grants the Secretaries of State and Homeland Security as well as the Attorney General access to child support payment information of an alien seeking an immigration benefit.

*Section 1307. Effective Date*

The provisions of this title shall be effective 90 days after enactment.

TITLE XIV—FALLEN HEROES OF 9/11 ACT

*Section 1401. Short Title*

Section 1401 authorizes that this bill may be cited as the ''Fallen Heroes of 9/11 Act.''

*Section 1402. Congressional Findings*

*Section 1403. Fallen Heroes of 9/11 Congressional Medals*

Authorizes the President to present to the personal representative or next of kin of each individual who died on or after September 11, 2001, as a direct result of the act of terrorism within the United States on that date, a Fallen Heroes of 9/11 Congressional Medal in recognition of their sacrifice and to honor their deaths.

*Section 1404. Duplicate Medals*

Directs the Secretary of the Treasury to strike: (1) three medals to honor victims of the attack at the World Trade Center (WTC), victims aboard United Airlines Flight 93 that crashed in Pennsylvania, and victims at the Pentagon; and (2) duplicate medals for presentation to each precinct house, firehouse, emergency response station, or other duty station or place of employment to which officers, emergency workers, and other employees of the U.S. Government and of State and local government agencies (including the Port Authority of New York and New Jersey) and others who responded to and perished as a direct result of the WTC attacks were assigned on September 11, 2001.

*Section 1405. Establishment of Lists of Recipients*

Directs the Secretary of Treasury to establish a list of individuals eligible under section 1604 and add individuals as they subsequently become eligible.

*Section 1406. Sales to the Public to Defray Costs*

Directs the Secretary of Treasury to strike and sell duplicate medals to the public to defray the costs of production.

*Section 1407. National Medals*

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United 11 States Code.

TITLE XV—MISCELLANEOUS PROVISIONS

*Section 1501. Technical Amendments Relating to Public Law 107–56*

Section 1501 makes a series of technical amendments to Public Law No. 107–56, the USA PATRIOT Act.

*Section 1502. Miscellaneous Technical Amendments*

Section 1502 makes a series of technical amendments to Title 18 and Title 28, and it also repeals a duplicative authorization of a sexual abuse prevention program for runaway children which has recently been reauthorized in another statute. Sec. 117(b) of Pub. L. No. 108–96.

*Section 1503. Minor Substantive Amendment Relating to Contents of FBI Annual Report*

Section 1503 adds a requirement that the FBI include the number of personnel receiving danger pay in its annual report.

*Section 1504. Use of Federal Training Facilities*

Section 1504 is intended to ensure that the Justice Department uses the most cost-effective training and meeting facilities for its employees. For any predominantly internal training subsection (a) requires the Justice Department to use only a facility that does not require a payment to a private entity for the use of such facility, unless specifically authorized in writing by the Attorney General. Subsection (b) requires the Attorney General to prepare an annual report to the Chairmen and Ranking Members of the House and Senate Judiciary Committees that details each training requiring authorization under subsection (a). The report must include an explanation of why the facility was chosen and a breakdown of any expenditures incurred in excess of the cost of conducting the training at a facility that did not require such authorization.

*Section 1505. Technical Correction Relating to Definition Used in ''Terrorism Transcending National Boundaries'' Statute*

Makes technical changes to 18 USC 1958.

*Section 1506. Increased Penalties and Expanded Jurisdiction for Sexual Abuse Offenses in Correctional Facilities*

Section 1506 increases the penalties for sexual abuse within federal correction facilities and those who are held by the Bureau of Prisons.

*Section 1507. Expanded Jurisdiction for Contraband Offenses in Correctional Facilities*

Section 1507 expands the jurisdiction for contraband offenses in correctional facilities to include those in the custody of or in a facility under the control of the Attorney General and the Bureau of Prisons.

*Section 1508. Magistrate Judge's Authority To Continue Preliminary Hearing*

Amends 18 USC 3060(c) to include a provision to allow a magistrate judge to extend a preliminary hearing without the consent of the accused after a showing of extraordinary circumstances.

*Section 1509. Boys and Girls Clubs of America*

Section 1509 reauthorizes the Boys and Girls Club of America through 2010 and increases the minimum number of clubs that must exist nationwide.

*Section 1510. Authority of the Inspectors General*

Section 1510 amends the Crime Control Act of 1990 to allow Inspectors General to provide assistance to the National Center for Missing and Exploited Children.

*Section 1511. Foreign Student Visas*

This section would allow foreign students participating in ''distance learning'' programs at U.S. colleges and universities to enter the United States for up to 30 days on an ''F'' visa, in order to pursue their studies. Such aliens would be ineligible to change their nonimmigrant classification while in the United States.

*Section 1512. Pre-Release Custody of Prisoners*

This provision corrects an anomaly that developed in the law that prevents the BOP from exercising their previous ability to place convicts in community correctional facilities for a small part of the final portion of their sentences, so as to facilitate a smoother transition back into society.

*Section 1513. FBI Translator Reporting Requirement*

Section 1513 amends section 205 of the USA PATRIOT Act regarding an important reporting requirement by the Attorney General to the Senate and House Judiciary Committees about (1) the number of translators employed by the FBI, (2) legal and practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis, and (3) the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs. This section clarifies the deadline for the report, makes such reporting an annual requirement and expands the reporting requirement to include translators contracted by the government.

*Section 1514. Amendment to Victims of Child Abuse Act*

Section 1514 provides specific guidance on what information is required to be reported to the CyberTipline to include information on the content and images of the apparent violation, the Internet Protocol Address, the date and time associated with the violation, and specific contact information for the sender. In 1999, Congress established a statutory ''duty to report'' evidence of apparent violations of child pornography laws by Internet Service Providers (ISPs) to the CyberTipline which is operated by the National Center for Missing & Exploited Children (NCMEC).

*Section 1515. Development of an Information System Interstate Compact for Adult Offender Supervision*

This section supports the development of an information sharing system between states to support the exchange of information on offenders seeking and completing transfer from one state to another through the Interstate Compact for Adult Offender Supervision. This system will (1) establish a system of uniform data collection; (2) allow instant and real time access to information on active criminal cases by criminal justice officials; (3) provide regular reporting of Compact activities to heads of state councils, state executive, judicial and legislative leaders and criminal justice administrators; and (4) will be designed to integrate with current and future national, state, and local information systems.

TITLE XVI—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION BOARD

*Section 1601. Short Title*

Section 1601 sets forth the short title of Title XVII, the ''National Film Preservation Act of 2004.''

*Section 1602. Reauthorization and Amendment*

Section 1602 generally reauthorizes the National Film Preservation Board and directs the Librarian of Congress to continue the National Film Registry, established and maintained under the National Film Preservation Acts of 1988, 1992 and 1996, to maintain and preserve films that are culturally, historically, or aesthetically significant.

Section 1602(a) clarifies that the National Film Registry seal may be used with all formats of Registry films (e.g., film, video, DVD), inserts language regarding copyright ownership of Registry films that is consistent with a similar provision under the Sound Recording Preservation Act of 2000 [P.L. 106–474]; and sets forth, among current duties and powers of the Librarian under this title, new duties, parallel to those under the Sound Recording Preservation Act, to make registry films more broadly accessible for research and educational purposes, to review the comprehensive national plan developed under the National Film Preservation Act of 1992 and amend it to the extent necessary to ensure that it addresses technological advances in film preservation and storage, and to undertake initiatives to ensure preservation of the nation's moving image heritage, in concert with efforts of the National Audio-Visual Conservation Center (NAVCC) of the Library of Congress and other organizations.

Section 1602(b) amends the National Film Preservation Board to increase Board membership from 20 to 22 members, and amends the provision governing reimbursement of expenses so that it is consistent with the corresponding provision of the Sound Recording Preservation Act of 2000. The two new members are at-large members appointed by the Librarian.

Section 1602(c) incorporates parallel language from the Sound Recording Preservation Act of 2000, requiring the Librarian to utilize the NAVCC to ensure proper storage, preservation and dissemination of Registry films.

Section 1602(d) clarifies that the National Film Registry seal may be used with all formats of Registry films (e.g., film, video, DVD).

Section 1602(e) extends the authorization of the National Film Preservation Act for 10 years from the effective date of this Act, by striking the 7-year authorization period under the 1996 Act and substituting a 17-year period, dating from the 1996 Act effective date.

TITLE XVII—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION FOUNDATION

*Section 1701. Short Title*

Section 1701 sets forth the short title of Title XV111, the ''National Film Preservation Foundation Reauthorization Act of 2004.''

*Section 1702. Reauthorization and Amendment*

Section 1702(a) increases the Foundation's Board of Directors from nine to twelve, and allowing Board members to serve an unlimited number of terms.

Section 1702(b) and (c) permit the Board to incorporate the foundation in any location, rather than only in the District of Columbia.

Section 1702(d) increases the authorized appropriations level for federal matching funds for the Foundation from $250,000 per year to: $500,000 in fiscal years 2004 and 2005, and $1 million for fiscal years 2006 through 2013.

TITLE XVII—DREAM ACT

*Section 1801. Short Title*

This title may be called the ''Development, Relief, and Education for Alien Minors Act.''

*Section 1802. Definition of an Institute of Higher Education*

This section explains that ''institution of higher education'' is defined by the Higher Education Act of 1965.

*Section 1803. Restoration of State Option To Determine Residency for the Purposes of Higher Education Benefits*

Section 1803 repeals IIRIRA §505, 8 U.S.C. §1623. Each state is free to determine whom it deems a resident for the purpose of determining in-state tuition. The DREAM Act does not compel states to offer in-state tuition to undocumented aliens, nor does it prevent states from offering in-state tuition to anyone else.

*Section 1804. Cancellation of Removal and Adjustment of Status of Certain Long-Term Residents Who Entered the United States as Children*

Section 1804 provides that applicants may qualify for an initial conditional period of six years during which they can earn permanent resident status if they entered the United States at least five years prior to enactment, were under 16 years of age at the time of entry and are not inadmissible or deportable for specifically enumerated

grounds. There is a limited waiver only applicable for grounds of inadmissibility under Immigration and Nationality Act (INA) §212(a)(6) or deportability under INA §237(a)(1), (3), and (6). The applicant must also have graduated from high school, obtained a GED, or be admitted to an institution of higher learning as defined in 20 U.S.C. §1001. Additionally, the secondary and higher education institutions must be located within the United States. Persons previously ordered deported are not eligible for adjustment of status under this Act. Exceptions are made for those who remain within the United States with the U.S. government's consent or who received the deportation order while under the age of sixteen. This section also contains a physical presence requirement that the applicant must not have been out of the United States for more than ninety days in one visit, or one hundred and eighty days in the aggregate during the five-year period. There is a possible waiver of this requirement if the applicant shows exceptional circumstances no less compelling than serious illness to self, or death or serious illness to an immediate family member.

*Section 1805. Conditional Permanent Residence Status*

Section 1805 provides the ways through which conditional residents, after proving themselves worthy after six years, may become permanent residents. The ways are to earn a degree from an institution of higher education or to complete two years in a bachelor's or higher program, or to serve honorably in the military for at least two years. The applicant may obtain a waiver for these requirements but only at the discretion of the Secretary of Homeland Security or the Attorney General and only if applicant demonstrates ''exceptional and extreme unusual hardship.'' In addition, the applicant must maintain a clean record, meaning no crime or other misdeed that would render the applicant deportable or inadmissible. The alien cannot be a public charge during the six-year period. The applicant also must maintain continuous residence, as defined by this act, in the United States. If the applicant successfully completes the enumerated requirements, the six-year conditional period also satisfies the residency requirements for naturalization, subject to the limitations set forth in section 316 of the Immigration and Nationality Act.

*Section 1806. Retroactive Benefits Under this Act*

Section 1806 provides that if at the time of enactment an alien has already satisfied all requirements under sections 1804 and 1805 (meaning that the alien has already ''passed the test'' and has proven himself or herself worthy of the DREAM Act benefits) then that alien can adjust to permanent resident status without going to school or serving in the military again. Those who benefit from this ''grandfather'' clause must undergo the six-year conditional period and comply with all other requirements.

*Section 1807. Exclusive Jurisdiction*

Section 1807 provides that the Secretary of Homeland Security has jurisdiction to adjudicate affirmative applications for benefits, but the jurisdiction transfers to the EOIR under the DOJ when the applicant is in removal proceedings. The DREAM Act benefits will be available defensively to those in proceedings. Children 12 years of age or older who satisfy all other requirements of this act but who are still enrolled full time in school shall be granted a stay of proceedings by the EOIR. To the extent permissible under existing law, a child whose removal proceedings are stayed may obtain work authorization. Section 1807 does not preempt any existing federal or state labor laws, including laws governing minimum age to work.

*Section 1808. Penalties for False Statements in Application*

Section 1808 provides for criminal penalties for falsifying the application including fine or imprisonment or both.

*Section 1809. Confidentiality of Information*

Section 1809 contains a confidentiality clause. The Government is not permitted to use information gathered in processing an application under the DREAM Act to initiate removal proceedings against anyone. Violation of the confidentiality agreement would result in a fine up to $10,000. However, information sharing is permissible for the purpose of investigating a crime or a national security breach. Information also may be disseminated to a coroner for the purpose of identifying the deceased.

*Section 1810. Expedited Processing of Applications; Prohibition on Fees*

Section 1810 prohibits the collection of an application fee.

*Section 1811. SERVIS Registration*

Section 1811 requires an institution of higher education to register any student it enrolls who is a beneficiary under this Act in the Student and Exchange Visitor Information System (SEVIS).

*Section 1812. Higher Education Assistance*

Section 1812 limits the types of federal financial assistance that beneficiaries may receive. This section limits federal financial assistance under Title IV of the Higher Education Act of 1965 to student loans under Parts B and D, and work study programs under Part C of Title IV.

*Section 1813. GAO Report*

Section 1813 requires the Government Accounting Office (GAO) to produce a study, seven years after enactment, concerning the number of aliens who apply for and receive benefits under this Act.

TITLE XIX—DRU'S LAW

*Section 1901. Short Title*

This title may be called the Dru Sjodin National Sex Offender Public Database Act of 2004, or Dru's Law

*Section 1902. Definitions*

*Section 1903. Availability of the NSOR Database to the Public*

*Section 1904. Release of High Risk Inmates*

Mr. LEAHY. Mr. President, I am pleased to introduce with Senator HATCH the ''Department of Justice Appropriations Authorization Act, fiscal years 2005 through 2007.'' I thank Senator HATCH, the Chairman of the Judiciary Committee, for support of this legislation.

In the 107th Congress, the Senate and the House of Representatives properly authorized spending for the entire Department of Justice, ''DOJ'' or the ''Department'', for the first time since 1979. Congress extended that authorization in 1980 and 1981. Until 2002 Congress had not passed nor had the President signed an authorization bill for the Department. In fact, there were a number of years where Congress failed to consider any Department authorization bill. This 23-year failure to properly reauthorize the Department forced the appropriations committees in both houses to reauthorize and appropriate money.

We ceded the authorization power to the appropriators for too long, but in the 107th Congress Senator HATCH and I joined forces with House Judiciary Chairman SENSENBRENNER and Ranking Member CONYERS to create and pass bipartisan legislation that reaffirmed the authorizing authority and responsibility of the House and Senate Judiciary Committees—the ''21st Century Department of Justice Appropriations Authorization Act,'' Public Law 107–273. A new era of oversight began with that new charter for the Justice Department, with the Senate and House Judiciary Committees taking active new roles in setting the priorities and monitoring the operations of the Department of Justice, the FBI and other law enforcement agencies, and that bill helped our oversight duties in many ways. And, as we have learned in the past three years, the fight against terrorism makes constructive oversight more important than ever before.

Already this Congress, House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS have authored and shepherded through the House of Representatives a new Department of Justice Appropriations Authorization Act for Fiscal Years 2004 through 2006, H.R. 3036. I commend both Chairman SENSENBRENNER and Ranking Member CONYERS for working in a bipartisan manner to pass that legislation in the House of Representatives.

The ''Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007,'' is a comprehensive authorization of the Department based on H.R. 3036 as passed by the House of Representatives on March 30, 2004. Our bipartisan legislation would authorize appropriations for the Department for fiscal years 2005 through 2007, provide permanent enabling authorities which will allow the Department to efficiently carry out its mission, clarify and harmonize existing statutory authority, and repeal obsolete statutory authorities. The bill also establishes certain reporting requirements and other mechanisms intended to better enable the Congress and the Department to oversee the operations of the Department. Finally, our bill incorporates numerous other pieces of legislation on such issues as preventing—and recovering missing children, cigarette trafficking, intellectual property, going after terrorists who commit violent acts against American citizens overseas, among others—currently pending before Congress that enjoy strong bipartisan support.

I will now highlight a number of the provisions that make up this authorization bill.

Title I of our bill authorizes appropriations for the Department of Justice for each of fiscal years 2005 through 2007. With minor exceptions, these authorizations generally reflect the President's budget request.

Title II makes numerous improvements and upgrades to the Department's grant programs that assist law

enforcement and criminal justice agencies; build community capacity to prevent, reduce and control crime; assist victims of crime; and prevent crime.

We decided to combine the current Byrne formula grant, Byrne discretionary grant and Local Law Enforcement Block Grant, (LLEBG), programs into one Edward Byrne Memorial Justice Assistance Grant Program with an authorization of $1.075 billion and a list of 35 uses—a combination of the traditional Byrne and LLEBG grants regulations—for which these grants may be used.

I am a longtime supporter of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and the LLEBG, both of which have been continuously targeted for elimination by the Bush Administration. LLEBG, which received $225 million this year, provide local governments with the means to underwrite projects that reduce crime and improve public safety, and allow communities to craft their own responses to local crime and drug problems. The Edward Byrne Memorial State and Local Law Enforcement Assistance Program, which Congress funded at $659,117,000 in fiscal year 2004, makes grants to States to improve the functioning of the criminal justice system, with emphasis on violent crimes and serious offenders, and to enforce State and local drug laws. As a senator from a rural State that relies on LLEBG and Byrne grants to combat crime, I have been concerned with the President's proposals for funding and program eliminations of these well-established grant programs; our legislation makes it clear that the same authorized funding levels and uses will be available under the new consolidated grant program as under the previous two grant programs.

I am pleased that Title II also extends the authorization of appropriations for the Regional Information Sharing System, RISS, at $100 million for each of fiscal years 2005 through 2007. RISS serves as an invaluable tool to Federal, State and local law enforcement agencies by providing much-needed criminal intelligence and investigative support services. It has built a reputation as one of the most effective and efficient means developed to combat multi-jurisdictional criminal activity, such as narcotics trafficking and gang activity. Without RISS, most law enforcement officers would not have access to newly developed crime-fighting technologies and would be hindered in their intelligence-gathering efforts.

By providing State and local law enforcement agencies with rapid access to its secure, state-of-the-art, nationwide information sharing system, RISS gives law enforcement officers the resources they need to identify and apprehend potential terrorists before they strike. With this in mind, I authored Title VII of the USA PATRIOT Act, Public Law 107–56, to increase information sharing for critical infrastructure protection. The law expanded RISS to facilitate information sharing among Federal, State and local law enforcement agencies to investigate and prosecute terrorist conspiracies and activities, and increased authorized funding to $100 million.

Proper funding provides RISS with the means to maintain six regionally-based information sharing centers that allow for information and intelligence services to be disseminated nationwide addressing major, multi-jurisdictional crimes. In addition, as the September 11 terrorist attacks and calls for increased vigilance against future attacks demonstrated, RISS requires additional support to intensify anti-terrorism measures.

Each RISS center has up to 1,600 member agencies, the vast majority of which are at the municipal and county levels. Over 400 State agencies and over 850 Federal agencies, however, are also members. The Drug Enforcement Administration, Federal Bureau of Investigation, U.S. Attorneys' Offices, Internal Revenue Service, Secret Service, Customs, and the Bureau of Alcohol, Tobacco, Firearms and Explosives are among the Federal agencies that participate in the RISS Program.

Unfortunately, the Consolidated Appropriations law for FY 2004 did not provide full funding for RISS, instead including $30 million for the program. For the coming fiscal year, the President has proposed $45 million. We must ensure that RISS can continue current services, meet increased membership support needs for terrorism investigations and prosecutions, increase intelligence analysis capabilities and add staff to support the increasing numbers of RISS members.

This title also contains a reauthorization of the Crime Free Rural States program that we created in the DOJ Authorization bill in the last Congress. This program authorizes $10 million annually for rural states to address specific crime problems plaguing their areas. In Vermont, for example, this funding could be used to battle heroin abuse and its consequences.

This authorization bill contains a number of provisions of great interest to victim service organizations and those who administer federal grants for victim assistance and compensation. In particular, I am pleased that we have responded to repeated requests from the field to increase the amount that State assistance and compensation programs may retain for administrative purposes. I have been proposing such an increase for many years, without success.

Under current law, not more than five percent of victim assistance and compensation grants may be used for the administration of the State program receiving the grant. The House bill effectively decreases this already-low apportionment by combining administrative costs with training costs—currently one percent under guidelines promulgated by the Office for Victims of Crime, OVC. By contrast, we propose raising the amount that can be used for both worthwhile purposes to 7.5 percent of the grants. While this is still less than 10 percent retention permitted, for example, by the Violence Against Women Act, it will help States to accommodate the addition of training purposes in their costs.

Our bill will also amend the Victims of Crime Act, VOCA, to clarify the provisions establishing the Antiterrorism Emergency Reserve in various ways. The original H.R. 3036 permits replenishments of the Emergency Reserve based upon amounts obligated rather than amounts actually expended in any given fiscal year. Our bill includes two additional clarifications that I proposed. First, it makes explicit that the Emergency Reserve may be replenished only once each fiscal year, and may not be continually replenished as amounts are obligated or expended. Allowing continual replenishments could result in the obligations or expenditures exceeding the $50 million Emergency Reserve maximum. Second, we have ensured that all Emergency Reserve funds—whether carried over, used to replenish the Reserve, obligated or expended—fall above the cap on spending from the Crime Victim Fund as set by appropriations legislation.

Section 242 of the House-passed bill authorized the Assistant Attorney General for the Office for Justice Programs (OJP) to impose special conditions and determine priorities for formula grants. It was unclear to me why the authority to determine formula grant priorities was necessary and what its real impact would be on local victim services. Could it be read to authorize OJP to infringe on the discretion of each State to meet its own needs, as for example by mandating that State VOCA programs give priority to public agencies over nonprofit community organizations, or fund faith-based programs before secular programs? Priorities are already set out by Congress in the authorizing statutes, as is the requirement that programs coordinate public and private victim services in their communities, and the Justice Department should not be allowed to override those congressional directives. Moreover, VOCA already has extensive reporting requirements that enable the Department to monitor how States are distributing these funds. We have therefore deleted the authority to determine formula grant priorities, while retaining the special conditions provision.

Subtitle D of Title II deals with approaches to prevent crime. I am especially pleased that we included provisions that will specifically aid in preventing rural crime because rural States and communities face a number of unique law enforcement challenges. We added these provisions from Senator DASCHLE's ''Rural Safety Act,'' S. 1907, of which I am proud to be an original cosponsor. I commend our

Democratic Leader for his commitment to providing real and meaningful investments to address the unique set of challenges facing rural law enforcement agencies.

Rural law enforcement officers patrol larger areas, operate under tighter budgets and with smaller staffs than their urban and suburban counterparts. This legislation creates programs specifically designed to meet the many complex needs of rural law enforcement agencies and officers. Methamphetamine production and use, for example, is a growing concern for Vermonters. Because the ingredients and the equipment used to produce methamphetamines are so inexpensive and readily available, the drug can be manufactured or ''cooked'' in homemade labs. This has become one of the major problems facing law enforcement agencies nationwide. Last month, the Vermont State Police busted the first known methamphetamine lab in the State. We must help our law enforcement agencies as they struggle to keep up with its troubling growth.

To help law enforcement combat the spread of methamphetamine and other challenges, we authorize in this bill $20 million in grants for fiscal year 2005 to provide for the cleanup of methamphetamine laboratories and related hazardous waste in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area; and the improvement of contract-related response time for cleanup of methamphetamine laboratories and related hazardous waste in units of local establish methamphetamine prevention and treatment pilot programs in rural areas, and provide additional financial support to local law enforcement.

We also establish a rural 9–1–1 service program to provide access to, and improve a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States. Grants authorized at $25 million for fiscal year 2005 under this program will be used to establish or improve 9–1–1 service in rural communities. Priority in making grants under this program will be given to communities that do not have 9–1–1 service.

I am pleased that our bill includes the Campbell-Leahy-Hatch Bulletproof Vest Partnership Grant Act of 2003, a bill to reauthorize an existing matching grant program to help State, tribal, and local jurisdictions purchase armor vests for use by law enforcement officers. This bill was passed by the Senate by unanimous consent a year ago this month and it awaits consideration by the House of Representatives.

This measure marks the third time that I have had the privilege of teaming with my friend and colleague Senator CAMPBELL to work on this legislation. We authored the Bulletproof Vest Grant Partnership Act of 1998 in response to the tragic Carl Drega shootout in 1997 on the Vermont-New Hampshire border, in which two State troopers who did not have bulletproof vests were killed. The Federal officers who responded to the scenes of the shooting spree were equipped with lifesaving body armor, but the State and local law enforcement officers lacked protective vests because of the cost.

Two years later, we successfully passed the Bulletproof Vest Partnership Grant Act of 2000, and I hope we will go 3-for-3 this time around. Senator CAMPBELL brings to our effort invaluable experience in this area and during his time in the Senate he has been a leader in the area of law enforcement. As a former deputy sheriff, he knows the dangers law enforcement officers face when out on patrol. I am pleased that we have been joined in this effort by 12 other Senate cosponsors.

Our bipartisan legislation will save the lives of law enforcement officers across the country by providing more help to State and local law enforcement agencies to purchase body armor. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions nationwide with nearly 350,000 new bulletproof vests. In Vermont, 148 municipalities have been fortunate to receive funding for the purchase of almost 1200 vests. Without the Federal funding given by this program, I daresay that there would be close to that number of police officers without vests in Vermont today.

The Bulletproof Vest Partnership Grant Act of 2003 will further the success of the Bulletproof Vest Partnership Grant Program by re-authorizing the program through fiscal year 2007. Our legislation would continue the Federal-State partnership by authorizing up to $50 million per year for matching grants to State and local law enforcement agencies and Indian tribes at the Department of Justice to buy body armor.

We know that body armor saves lives, but the cost has put these vests out of the reach of many of the officers who need them. This program makes it more affordable for police departments of all sizes. Few things mean more to me than when I meet Vermont police officers and they tell me that the protective vests they wear were made possible because of this program. This is the least we should do for the officers on the front lines who put themselves in danger for us every day. I want to make sure that every police officer who needs a bulletproof vest gets one.

We also included in this authorization bill the ''Prevent All Cigarette Trafficking, PACT, Act,'' as passed by the Senate by unanimous consent on December 9, 2003, but which has yet to be taken up and passed by the House. I commend Senators HATCH and KOHL for their leadership on this measure and thank them for working with me, among others, to craft the compromise language that we include in this bill to crack down on the growing problem of cigarette smuggling, both interstate and international, as well as to address the connection between cigarette smuggling activities and terrorist funding. I am proud to join Senator HATCH, Senator KOHL and 10 others as a cosponsor of the standalone bill.

I also thank the National Association of Attorneys General and the Campaign for Tobacco-Free Kids, for working with us and contributing to this language. I want to say a special thanks to Vermont Attorney General Bill Sorrell, who also serves as the current Chair of the NAAG Tobacco Committee, for his valuable input on the problems with cigarette smuggling that states are facing and his support for this compromise measure. I also want to thank the Vermont Grocers Association, the Vermont Retail Association, the Vermont Association of Chiefs of Police, and the National Conference of State Legislatures for their support for this measure.

The movement of cigarettes from low-tax areas to high-tax areas in order to avoid the payment of taxes when the cigarettes are resold has become a public health problem in recent years. As State after State chooses to raise its tobacco excise taxes as a means of reducing tobacco use and as a source of revenue, many smokers have sought cheaper means by which to purchase cigarettes. Smokers can often purchase cigarettes and tobacco from remote sellers, Internet or mail order at substantial discounts due to avoidance of State taxes. These sellers, however, are evading their tax obligations because they neither collect nor pay the proper State and local excise taxes for cigarette and other tobacco product sales.

We have the ability to dramatically reduce smuggling without imposing undue burdens on manufacturers or law abiding citizens. By reducing smuggling we will also increase government revenues by minimizing tax avoidance. My friend General Sorrell has told me that this has become a rapidly growing problem in Vermont as more and more tobacco product manufacturers fail to collect and pay cigarette taxes. Criminals are getting away with smuggling and not paying tobacco taxes because of weak punishments, products that are often poorly labeled, the lack of tax stamps and the inability of the current distribution system to track sales from State-to-State. These lapses point to a need for uniform rules governing group sales to individuals.

The PACT Act will give States the authority to collect millions of dollars in lost State tax revenue resulting from online and other remote sales of cigarette and smokeless tobacco. It also ensures that every tobacco retailer, whether a brick-and-mortar or remote retailer of tobacco products, play by the same rules by equalizing the tax burdens.

Moreover, the PACT Act gives States the authority necessary to enforce the Jenkins Act, a law passed in 1949, which requires cigarette vendors to report interstate sales of cigarettes. This legislation enhances States' abilities to collect all excise taxes and verify the deposit of all required escrow payments for cigarette and smokeless tobacco sales in interstate commerce, including internet sales. In addition, it provides Federal and State law enforcement with additional resources to enforce state tobacco excise tax laws.

Finally, at the request of the National Association of Attorneys General and many State Attorneys General, we have added a new section to provide the States with authority to enforce the Imported Cigarette Compliance Act to crack down on international tobacco smuggling. This additional authority should further reduce tax evasion and eliminate a lucrative funding source for terrorist organizations.

We must not turn a blind eye to the problem of illegal tobacco smuggling. Those who smuggle cigarettes are criminals and we must close the loopholes that allow cigarette smuggling to continue.

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. I am pleased that we can today include, as part of the Department of Justice Authorization Act, the ''Cooperative Research and Technology Enhancement Act of 2004,'' the CREATE Act, legislation that I cosponsored along with Senator HATCH, Senator KOHL, Senator FEINGOLD, Senator SCHUMER, Senator GRASSLEY, Senator JOHNSON, and Senator COCHRAN. This bill will provide a needed remedy to one aspect of our Nation's patent laws. On June 25, 2004, the CREATE Act passed the Senate by unanimous consent.

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 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 am pleased that the PIRATE Act, which I cosponsored with Senator HATCH, will be included as part of this bipartisan bill. Like the overall bill, the PIRATE Act is a consensus bill that will give the Justice Department new and needed tools—in this case, these tools are specific to the fight against piracy. This bill was unanimously passed by the Senate on June 25, 2004. By including this measure in the Department of Justice Authorization Bill, we hope to muster more forces to combat the growing problem of digital piracy.

For too long, Federal prosecutors have been hindered in their pursuit of pirates, by the fact that they were limited to bringing criminal charges with high burdens of proof. In the world of copyright, a criminal charge is unusually difficult to prove because the defendant must have known that his conduct was illegal and he must have willfully engaged in the conduct anyway. For this reason prosecutors can rarely justify bringing criminal charges, and copyright owners have been left alone to fend for themselves, defending their rights only where they can afford to do so. In a world in which a computer and an Internet connection are all the tools you need to engage in massive piracy, this is an intolerable predicament.

The PIRATE Act will give the Attorney General civil enforcement authority for copyright infringement. It also calls on the Justice Department to initiate training and pilot programs to ensure that Federal prosecutors across the country are aware of the many difficult technical and strategic problems posed by enforcing copyright law in the digital age.

This new authority does not supplant either the criminal provisions of the Copyright Act, or the remedies available to the copyright owner in a private suit. Rather, it allows the government to bring its resources to bear on this immense problem, and to ensure that more creative works are made available online, that those works are more affordable, and that the people who work to bring them to us are paid for their efforts.

I am pleased that the Koby Mandell Act of 2003 was included in this legislation. I am a proud cosponsor of the stand-alone bill. The Act would establish an office within the Department of Justice with a mandate to ensure equal treatment of all victims of terrorist acts committed overseas. Its primary role would be to guarantee that vigorous efforts are made to pursue, prosecute, and punish each and every terrorist who harms Americans overseas, no matter where attacks occur. It would also take steps to inform victims of important developments in international cases, such as status reports on efforts to capture terrorists and monitoring the incarceration of those terrorists who are imprisoned overseas. This is important legislation that would send a strong message of resolve that we are committed to finding and punishing every terrorist who harms Americans overseas.

I am pleased that we have included part of S. 1286, the Seniors Safety Act, which I introduced last year. This bill would create an enhanced sentencing penalty for those who commit crimes against the elderly, create new civil and criminal penalties for pension fraud, and create a centralized service to log complaints of telemarketing fraud.

We would also provide the Attorney General with a new and substantial tool to prevent telemarketing fraud—the power to block or terminate service to telephone facilities that are being used to defraud innocent people. The Justice Department could use this authority to disrupt telemarketing fraud schemes directed from foreign sources by cutting off the swindlers' telephone service. Even if the criminals acquire a new telephone number, temporary interruptions will prevent some seniors from being victimized.

We have agreed to incorporate a slightly revised version of the Federal Prosecutors' Retirement Benefit Equity Act of 2004, which was originally introduced as a stand-alone bill with my good friends Senator HATCH, Senator MIKULSKI and Senator DURBIN. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than nearly all other people involved in the Federal criminal justice system including pretrial services officers, probation officers, accountants, cooks and secretaries of the Bureau of Prisons. Indeed the benefits incorporated in this bill are comparable not only to those received by traditional ''law enforcement officers'' such as Federal agents, but also the Capitol Police, Supreme Court police, air traffic controllers and firefighters. The bill would essentially allow, but not mandate, AUSAs to retire at age 50 with 20 years of service.

Currently, Assistant United States Attorneys, AUSAs, and other Federal

prosecutors are not eligible for these enhanced benefits even though they are enjoyed by the vast majority of other employees in the criminal justice system. Once a defendant is brought to into the criminal justice system, the person with whom they have the most face-to-face contact, and often in an extremely confrontational environment, is the Federal prosecutor. AUSAs and other Federal prosecutors participate in planning investigations, interviewing witnesses both inside and outside of the office setting, debriefing defendants, obtaining warrants, negotiating plea agreements and representing the government at trials and sentencings. Each of these responsibilities encompass ''the investigation, apprehension, or detention'' of individuals suspected or convicted of violating Federal law which is just one justification for granting extended benefits to law enforcement officers.

AUSAs are an integral part of the criminal justice system and their unique position and demanding jobs has rightfully earned them the benefits set forth in this important bill.

I am pleased that S. 710, the Leahy-Hatch Anti-Atrocity Alien Deportation Act, was included in this legislation. This measure would expand the grounds for removing alien human rights violators from the United States, or for denying them entry in the first place. We have heard many accounts of abusers who have taken advantage of America's freedoms after committing horrifying violations of their fellow citizens in their native lands. We need to stop that from happening again.

This bill passed the Judiciary Committee last November but has been subject to an anonymous hold on the floor. A similar version of it passed the Senate by unanimous consent in the 106th Congress. It is long past time to make it law.

I would note that on May 12, a Rwandan man wanted on international charges of genocide and crimes against humanity was arrested at his suburban Chicago home by agents from the Bureau of Immigration and Customs Enforcement, ICE. Before I and others began to raise the issue of the war criminals among us, it was my impression that the former INS paid little attention to rooting out these thugs. I am pleased that the issue has taken on greater importance at ICE, and urge the Senate to pass this bill so that we can expand the grounds of inadmissibility and removability for human rights violators.

I am proud that we include Schumer-Specter legislation to honor the sacrifice of the September 11, 2001, terrorist victims by creating Congressional medals that would be awarded to their families and loved ones by the President. I am proud to have joined my friends as a cosponsor of this legislation, as have 18 other Senators.

The tragedy of September 11, 2001, demanded unprecedented sacrifices of everyday American civilians and rescue workers—3,000 of whom lost their lives in the attacks. In recognition of their heroic actions on that day, the bipartisan Fallen Heroes of 9/11 Act would create a medal to be awarded posthumously to the victims of the September 11 terrorist attacks. The medal would be designed by the Department of Treasury and awarded to representatives of the deceased by the President. The production of the medals would be paid for by the sale of duplicate medals to the public. Those of us who lost loved ones almost three years ago can never have them back, but a medal of honor could recognizes the sacrifices and heroic efforts of our fallen citizens.

We also incorporated language similar to the Leahy-Grassley-Lincoln ''Missing Child Cold Case Review Act of 2004,'' S. 2435, which will allow an Inspector General to authorize his or her staff to provide assistance on and conduct reviews of the inactive case files, or ''cold cases,'' involving children stored at the National Center for Missing and Exploited Children, NCMEC, and to develop recommendations for further investigations. The only alteration we made to the original bill was to include language to also allow the Inspector General of the Government Printing Office to authorize his or her staff to work on cold cases.

Speed is everything in homicide investigations. As a former prosecutor in Vermont, I know firsthand that speed is of the essence when trying to solve a homicide. This focus on speed, however, has led the law enforcement community to generally believe that any case not solved within the first 72 hours or lacking significant leads and witness participation has little likelihood of being solved, regardless of the expertise and resources deployed. With time, such unsolved cases become ''cold,'' and these are among the most difficult and frustrating cases detectives face because they are, in effect, cases that other investigators, for whatever reason, failed to solve.

Our Nation's law enforcement agencies, regardless of size, are not immune to rising crime rates, staff shortages and budget restrictions. Such obstacles have strained the investigative and administrative resources of all agencies. More crime often means that fewer cases are vigorously pursued, fewer opportunities arise for follow-up and individual caseloads increase for already overworked detectives.

All the obstacles that hamper homicide investigations in their early phases contribute to cold cases. The National Center for Missing and Exploited Children—our Nation's top resource center for child protection—presently retains a backlog of cold cases involving children that law enforcement departments nationwide have stopped investigating primarily due to all these obstacles. NCMEC serves as a clearinghouse for all cold cases in which a child has not been found and/or the suspect has not been identified.

This provision will allow an Inspector General to provide staff support to NCMEC for the purpose of conducting reviews of inactive case files to develop recommendations for further investigation and similar activities. The Inspector General community has one of the most diverse and talented criminal investigative cadres in the Federal Government. A vast majority of these special agents have come from traditional law enforcement agencies, and are highly trained and extremely capable of dealing with complex criminal cases.

Under current law, an Inspector General's duties are limited to activities related to the programs and operations of an agency. This measure would allow an Inspector General to permit criminal investigators under his or her supervision to review cold case files, so long as doing so would not interfere with normal duties. An Inspector General would not conduct actual investigations, and any Inspector General would only commit staff when the office's mission-related workloads permitted. At no time would these activities be allowed to conflict with or delay the stated missions of an Inspector General.

From time to time a criminal investigator employed by an Inspector General may be between investigations or otherwise available for brief periods of time. This act would also allow those resources to be provided to the National Center for Missing and Exploited Children. Commitment of resources would be at a minimum and would not materially affect the budget of any office.

We have before us the type of bipartisan legislation that should be moved easily through the Senate and House. It is supported by the Department of Justice Office of the Inspector General. I applaud the ongoing work of the National Center for Missing and Exploited Children and hope that we can soon provide NCMEC with the resources it requires to solve cold cases involving missing children.

This authorization bill includes a provision that would help colleges and universities in Vermont and across the Nation. It would allow foreigners who are pursuing ''distance learning'' opportunities at American schools to enter the country for up to 30 days to fulfill academic requirements. Under current law, these students do not fall under any visa category, and many are being denied entry and are thus unable to complete their educations. This is a loophole that harms both those students and the institutions that serve them.

In recent months, serious questions have been raised in the media and in several congressional hearings about deficiencies within the translation program at the FBI. Nearly 2 years ago I began asking questions in Judiciary Committee hearings about the FBI's translation program. Most of these remain unanswered. As a result, members of our Committee are no closer to

determining the scope of the issue, including the pervasiveness and seriousness of FBI shortcomings in this area, or what the FBI intends to do to rectify personnel shortages, security issues, translation inaccuracies and other problems that have plagued the translator program for years.

Section 205 of the USA PATRIOT Act included an important reporting requirement by the Attorney General to the Senate and House Judiciary Committees about 1. the number of translators employed by the FBI, 2. legal and practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis, and 3. the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs. To date, the Attorney General has not made the report required by Section 205—most likely because there is no date certain written in the law by which the report must be made. This provision fills that gap by requiring the report ''not later than 30 days after the date of enactment . . . and annually thereafter . . . with respect to the preceding 12 month period.'' It also expands the reporting requirement to include translators ''contracted'' by the government in addition to those ''employed.''

I have worked my entire professional life to protect children from those who would prey on them. Preventing child exploitation through the use of the Internet is one concrete and important way to help this important cause. In this regard, under the Protection of Children from Sexual Predators Act of 1998, Public Law 105–314, remote computing and electronic communication service providers are mandated to report all instances of child pornography to the National Center for Missing and Exploited Children. I respect and applaud the work of NCMEC and its tireless efforts in this important national priority.

In March 1998, Congress mandated that NCMEC initiate the CyberTipline for citizens to report online sexual crimes against children. In December 1999, Congress passed Public Law 106–113 to modify 42 U.S.C. §13032(b)(1) to set forth a ''duty to report'' by ISPs. According to NCMEC, many U.S. electronic communications service providers are not complying with the requirement that they register and use the CyberTipline to report child porn found on their services because supporting regulations required to be promulgated by the Department of Justice on matters such as the contents of the report were never done so.

In this authorization bill we propose language that amends the ''duty to report'' language by providing specific guidance on what information is required to be included in the ISP reports. The information required includes the content and images of the apparent violation, the Internet Protocol Address, the date and time associated with the violation, and specific contact information for the sender.

America's film heritage is an important part of the American experience, an inheritance from previous generations that help tell us who we are—and who we were—as a society. They offer insight into our history, our dreams, and our aspirations. Yet sadly, this part of American heritage is literally disintegrating faster than can be saved. Today, I am delighted that with the help of Senator HATCH, the ''National Film Preservation Act'' can be included in our Department of Justice Reauthorization bill.

I introduced the ''National Film Preservation Act'' last November, a bill that will reauthorize and extend the ''National Film Preservation Act of 1996.'' We first acted in 1988 in order to recognize the educational, cultural, and historical importance of our film heritage, and its inherently fragile nature. In doing so, Congress created the National Film Preservation Board and the National Film Preservation Foundation both of which operate under the auspices of the Library of Congress in order to help save America's film heritage.

The ''National Film Preservation Act'' will allow the Library of Congress to continue its important work in preserving America's fading treasures, as well as providing grants that will help libraries, museums, and archives preserve films and make those works available for study and research. These continued efforts are more critical today than ever before. While a wide range of works have been saved, with every passing day we lose the opportunity to save more. Fewer than 20 percent of the features of the 1920s exist in complete form and less than 10 percent of the features of the 1910s have survived into the new millennium.

The films saved by the National Film Preservation Board are precisely those types of works that would be unlikely to survive without public support. At-risk documentaries, silent-era films, avant-garde works, ethnic films, newsreels, and home movies frequently provide more insight into the American experience than the Hollywood sound features kept and preserved by major studios. What is more, in many cases only one copy of these ''orphaned'' works exists. As the Librarian of Congress, Dr. James H. Billington, has noted, ''Our film heritage is America's living past.''

I would like to thank Senator HATCH again for working with me to include the ''National Film Preservation Act'' in the bill we are introducing today.

I am pleased that the DREAM Act has been included in this bill. I am a cosponsor of the bill, which Senators HATCH and DURBIN introduced last year and was passed last fall by the Judiciary Committee. It would benefit undocumented alien children who were brought to the United States by their parents as young children, by restoring States' ability to offer them in-state tuition and offering them a path to legal residency. It has been distressing that a bill with Committee approval and 48 sponsors has been unable to get a vote on the floor of the Senate, and I hope that including the DREAM Act in this legislation will give it added momentum.

Status Reports on Enemy Combatants: The House-passed bill included an important reporting requirement authored by Representative ADAM SCHIFF and adopted by the House Judiciary Committee. Specifically, this provision required the Department of Justice to submit an annual report to Congress specifying the number of U.S. persons or residents detained on suspicion of terrorism, and describing Department standards for recommending or determining that a person should be tried as a criminal defendant or designated as an enemy combatant. A Washington Post editorial dated April 3, 2004, praised this provision, while noting that ''If more members of the House took their duty to legislate in this critical area seriously, Congress would craft a bill that actually imposed standards rather than simply inquired what they were.'' I agree, and regret that was unable to persuade Chairman HATCH to retain this modest oversight tool.

Privacy Officer: I am disappointed that we will not be including the privacy officer provision referred to us by the House. It is critical that the Department have a designated leader who is consistently mindful of the impact of the Department's activities on privacy rights. While there has been some history of a privacy official at the Department, these positions have been nonstatutory, and thus there has been no guarantee of consistent vigor and accountability on these issues. Given that the Department's mission increasingly involves gathering and assessing personal information, we simply can't afford to have a lapse in accountability on privacy. Moreover, this is not an untested idea. Congress created a privacy officer for the Department of Homeland Security, and it has been recognized as a successful example of how this role can be helpful in assessing and addressing privacy concerns. We need to follow this lead, and the privacy officer provision would have been a good opportunity to do so.

I look forward to working with Senator HATCH, Congressman SENSENBRENNER and Congressman CONYERS to continue the important business of reauthorizing the Department of Justice. Clearly, regular reauthorization of the Department should be part and parcel of the Committees' traditional role in overseeing the Department's activities. Swift passage into law of the ''Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007'' will be a significant step toward enhancing our oversight role.

By Mr. GRASSLEY (for himself, Mr. LEAHY, Mr. BOND, Mr. NELSON of Nebraska, and Mr. FEINGOLD):

S. 2864. A bill to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, 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. 2864

*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 ''Family Farmer Bankruptcy Relief Act of 2004''.

**SEC. 2. EIGHTEEN-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12 OF TITLE 11, UNITED STATES CODE, IS REENACTED.**

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105–277 (11 U.S.C. 1201 note) is amended—

(1) by striking ''January 1, 2004'' each place that term appears and inserting ''July 1, 2005''; and

(2) in subsection (a)—

(A) by striking ''June 30, 2003'' and inserting ''December 31, 2003''; and

(B) by striking ''July 1, 2003'' and inserting ''January 1, 2004''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) are deemed to have taken effect on January 1, 2004.

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By Mr. INHOFE (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. CORNYN, Ms. CANTWELL, Mrs. BOXER, Mr. NELSON of Nebraska and Mr. CRAIG):

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans; read the first time.

Mr. INHOFE. Mr. President, I rise today to proudly introduce the Commodity Assessment Protection and Reform Act.

This legislation fixes a potential problem for our wheat producers in the State of Oklahoma as well as other wheat producing states.

As Government encourages agricultural producers to become more responsible for their own marketing and research programs, it is vital that we give producers the ability to do just that.

To enhance marketing and research of agricultural commodities, farm programs for many years have authorized the use of marketing loans for some commodities. Producers receive cash loans using the commodity as collateral. Marketing loans allow the producer to market crops while also providing cash to pay outstanding bills.

These marketing and research programs provide many benefits: increasing commodity category sales; creating a viable, thriving marketplace for individual businesses; providing greater opportunity for brands and businesses to compete for their share of the category; protecting small producers from being severely disadvantaged against large competitors that could undermine industry growth; building a more favorable economic environment—better prices for producers, more revenue growth for processors; reducing dependence on taxpayer dollars for support payments and government administration in times of economic hardship; providing an open, free flow of consumer information to help consumers make informed choices about purchasing these commodities; and providing ongoing investments in research to ensure product quality, safety and nutrition expectations.

For wheat, this program is administered by the individual State wheat commissions and is not a national program. In Oklahoma, wheat producers have the option to opt out of the program if they choose.

Wheat producers in Oklahoma, and in many other States, have supported this system for collecting assessments on the commodities they produce. For wheat placed under loan with the United States Department of Agriculture, USDA, Commodity Credit Corporation, CCC, the CCC has collected these grower-funded assessments. Again, these assessments are used to fund research and marketing programs.

The loan placement is considered to occur at the first point of sale. The CCC has supported State commissions in the collection of grower-funded assessments for many years. These State assessments have been collected under a cooperative agreement defined in a Memoranda of Understanding between individual State commodity commissions and the USDA.

Recently USDA determined that if the state commission changes the assessment rate, USDA would no longer honor a Memorandum of Understanding between a state commodity commission and USDA. In several states, wheat growers voted to increase their support of commodity activities by approving an assessment increase. State wheat commissions whose growers have voted for increased funding are faced with no viable means of collecting assessments on the commodity under the loan program.

USDA claims that it lacks statutory authority to recognize these new or modified Memoranda of Understanding. The decision by USDA not to honor amended Memoranda of Understanding could cause serious financial harm to the work of the commissions, which support a range of activities from research to market development.

The use of these funds is very important for the expanding markets and increasing research. They become even more critical when wheat prices are low.

This decision by USDA to no longer honor these Memoranda of Understanding has caused great hardship for a number of wheat states whose producers have voluntarily voted to give more of their own money to programs they deem important.

In order to correct this problem, I am introducing legislation that will allow USDA to continue to collect approved State commodity assessments. This legislation authorizes the USDA to recognize a Memorandum of Understanding when a State has increased or modified its assessment rate, as well as recognize Memoranda of Understanding that have been terminated prior to the date of enactment of this legislation.

According to USDA, the cost of implementing this legislation would be minimal, since the collection procedure is already in place and will only require a change in the factor of the assessment.

I would like to note that the House Agriculture Committee passed this bill unanimously last week through the excellent work of my friends GEORGE NETHERCUTT and BOB GOODLATTE.

The House Agriculture Committee informs me that their intention is to achieve full House passage of this legislation by suspension of the rules next week. I want to make a special plea to the Senate to pass this simple, much-needed, thoroughly bipartisan, and noncontroversial legislation in the 108th Congress. Toward that end, I request that the bill be held at the desk per Rule 14.

Again, as Government encourages agricultural producers to become more responsible for their own marketing and research programs, this common sense legislation is needed to ensure the continued success of these programs.

At this time I thank the people in Oklahoma who have contacted me in support of this legislation: Jeramy Rich with the Oklahoma Farm Bureau, Ray Wulf with the Oklahoma Farmers Union, Tim Bartram with the Oklahoma Wheat Growers Association, Mark Hodges with Oklahoma Wheat Commission, Mike Kubicek with the Oklahoma Peanut Commission, as well my Legislative Assistant Mike Ference who assisted me with this legislation. I appreciate all of their support.

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. 2866

*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 ''Commodity Assessment, Protection, and Reform Act''.

**SEC. 2. COLLECTION OF COMMODITY ASSESSMENTS.**

Subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) is amended by adding at the end the following:

**"SEC. 1210. COLLECTION OF COMMODITY ASSESSMENTS.**

''(a) DEFINITION OF ASSESSMENT.—In this section, the term 'assessment' means funds that are—

''(1) collected with respect to a specific commodity in accordance with this Act;

''(2) paid by the first purchaser of the commodity in accordance with a State law or this title; and

''(3) not collected through a tax or other revenue collection activity of a State.

''(b) AUTHORITY TO COLLECT COMMODITY ASSESSMENTS FROM MARKETING ASSISTANCE LOANS.—The Secretary may collect commodity assessments from the proceeds of a marketing assistance loan made under this subtitle in accordance with an agreement between the Secretary and the State.''.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 441—EXPRESSING THE SENSE OF THE SENATE THAT OCTOBER 17, 1984, THE DATE OF THE RESTORATION BY THE FEDERAL GOVERNMENT OF FEDERAL RECOGNITION TO THE CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS, SHOULD BE MEMORIALIZED

Mr. SMITH (for himself and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 441

Whereas the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), which was signed by the President on October 17, 1984, restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians historically inhabited land now in the State of Oregon, from Fivemile Point in the south to Tenmile Creek in the north, west to the Pacific Ocean, then east to the crest of the Coast Range, encompassing the watersheds of the Coos River, the Umpqua River to Weatherly Creek, the Siuslaw River, the coastal tributaries between Tenmile Creek and Fivemile Point, and portions of the Coquille watershed;

Whereas in addition to restoring Federal recognition, that Act and other Federal Indian statutes have provided the means for the Confederated Tribes to achieve the goals of cultural restoration, economic self-sufficiency, and the attainment of a standard of living equivalent to that enjoyed by other citizens of the United States;

Whereas by enacting the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), the Federal Government—

(1) declared that the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians were eligible for all Federal services and benefits provided to federally recognized tribes;

(2) provided the means to establish a tribal reservation; and

(3) granted the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians self-government for the betterment of tribal members, including the ability to set tribal rolls;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have embraced Federal recognition and self-sufficiency statutes and are actively working to better the lives of tribal members; and

Whereas economic self-sufficiency, which was the goal of restoring Federal recognition for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, is being realized through many projects: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that October 17, 1984, should be memorialized as the date on which the Federal Government restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

### SENATE RESOLUTION 442—APOLOGIZING TO THE VICTIMS OF LYNCHING AND THEIR DESCENDANTS FOR THE SENATE'S FAILURE TO ENACT ANTI-LYNCHING LEGISLATION

Ms. LANDRIEU (for herself and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 442

Whereas the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction;

Whereas lynching was a common practice in the United States until the middle of the 20th century;

Whereas lynching was a crime that occurred throughout the Nation, with documented incidents in all but 4 States;

Whereas at least 4,749 people, predominantly African-Americans, were reported lynched in the United States between 1881 and 1964;

Whereas 99 percent of all lynch mob perpetrators escaped any form of punishment from State or local officials;

Whereas lynching prompted African-Americans to form the National Association for the Advancement of Colored People (NAACP) and prompted members of B'nai B'rith to found the Anti-Defamation League;

Whereas nearly 200 anti-lynching bills were introduced in Congress during the first half of the 20th century;

Whereas between 1890 and 1952, 7 Presidents petitioned Congress to end lynching;

Whereas between 1920 and 1940, the House of Representatives passed 3 strong anti-lynching measures;

Whereas protection against lynching was the minimum and most basic of Federal responsibilities, yet the Senate failed to enact anti-lynching legislation despite repeated requests by civil rights groups, Presidents, and the House of Representatives;

Whereas until the recent publication of ''Without Sanctuary: Lynching Photography in America'', the victims of lynching have never been properly acknowledged;

Whereas only by coming to terms with its history can the United States effectively champion human rights abroad; and

Whereas an apology offered in the spirit of true repentance moves the Nation toward reconciliation and may become central to a new understanding upon which improved racial relations can be forged: Now, therefore, be it

*Resolved*, That the Senate—

(1) apologizes to the victims and survivors of lynching for its failure to enact anti-lynching legislation;

(2) expresses its deepest sympathies and most solemn regrets to the descendants of victims of lynching whose ancestors were deprived of life, human dignity, and the constitutional protections accorded all other citizens of the United States; and

(3) remembers the history of lynching, to ensure that these personal tragedies will be neither forgotten nor repeated.

Ms. LANDRIEU. Mr. President, it has been said that ''ignorance, allied with power, is the most ferocious enemy justice can have.'' Sadly, this great body, in which I am so proud to serve, once allied its power with ignorance. In so doing, it condoned unspeakable injustice that diminished the role of the Senate, and heaped untold suffering on Americans sorely in need of our protection. I am referring to the Senate's role in the decades long campaign to end lynching in this country. On three separate occasions, our colleagues in the House of Representatives passed anti-lynching legislation with overwhelming majorities. On all three of those occasions members of this Chamber blocked, or filibustered the consideration of that legislation.

Between 1882, when records first began to be collected, and 1968 four thousand, seven hundred and forty-two Americans lost their lives to lynch mobs. The experts believe that undocumented cases might double that figure. The vast majority of those killed—three thousand, four hundred and forty-five Americans—were African American. Sadly, a disproportionate number of those deaths occurred within my home region of the South, but 46 of the 50 States experienced these atrocities. Lynching was truly a national problem deserving the attention of the national legislative bodies.

Frederick Douglas seems to have captured the real reason for this dark period of our national history. These acts of terrorism were not so much an admission of African Americans' weakness, but of their perseverance—and indomitable spirit. Douglas wrote: It is proof that the Negro is not standing still. He is not dead, but alive and active. He is not drifting with the current, but manfully resisting it . . . A ship rotting at anchor meets with no resistance, but when she sails on the sea, she has to buffet opposing billows. The enemies of the Negro see that he is making progress and they naturally wish to stop him and keep him in just what they consider his proper place.

It was, in short, the ability of African Americans to overcome Jim Crow laws, to overcome share-cropping, to overcome second-class citizenship that provoked such savagery. Its an old story that repeats itself throughout human history. Whether it was the Israelites in Egypt, the colonial empires in Africa or America's own history of Apartheid, rulers that assume superiority inevitably prove themselves models of mankind's basest instincts.

It should also be noted that this was not only an outrage committed against African Americans. The effort to dehumanize people on the basis of race or ethnicity did not limit itself to black Americans. In fact, the single largest incident of lynching occurred in my home state, in my home town of New Orleans. Yet, the victims were not black. They were Italians. On March 14, 1891, 11 Italian immigrants were lynched in the City of New Orleans. These immigrants too were thought to

be less than human, and were simply rounded up as a group of the ''usual suspects'' following the murder of Police Superintendent David Hennessy. Already edgy from a media prompted mafia scare, a mob surrounded the prison and eventually battered down the doors. An armed group of twenty five men overtook the guards and summarily riddled the bodies of the 11 Italian prisoners with bullets. Their bodies were hung on lampposts outside the prison. Eyewitnesses described the cheering of the crowd as deafening.

Of course, the attacks on that day are an example of mob justice and its irrational prejudices. However, in nearly 25 percent of all lynchings the motivations of the attackers came down to a bald attempt to maintain a caste system in this country. The NAACP cataloged the reported motivations for these forms of attack. They included: using disrespectful, insulting, slanderous, boastful, threatening or incendiary language; insubordination, impertinence, or improper demeanor, a sarcastic grin, laughing at the wrong place, a prolonged silence; refusing to take off one's hat to a white person or to give the right-of-way when encountering a white on the sidewalk; resisting assault by whites; being troublesome generally; disorderly conduct, petty theft or drunkenness; writing an improper letter to a white person; paying undue or improper attention to a white female; accusing a white man of writing love letters to a black woman; or living or keeping company with a white woman; turning or refusing to turn state's evidence; testifying or bringing suit against a white person; being related to a person accused of a crime and already lynched; political activities; union organizing; conjuring; discussing a lynching; gambling; operating a house of ill fame; a personal debt; refusing to accept an employment offer; vagrancy; refusing to give up one's farm; conspicuously displaying one's wealth or property; and trying to act like a white man.

In many instances, lynchings were little more than a way to remove an economic competitor and confiscate his property. This was true in a number of cases in Mississippi involving successful African American landowners, and in one notorious Hawaiian case involving a Japanese immigrant competing with established white businessmen.

Many of my colleagues might wonder why now? After all, some of these incidents are over a century old. There are two reasons. First, this aspect of American history is not well known or understood. As reconstruction concluded in the South, a very ugly struggle to reassert the social structure that preceded the Civil War took place. A great deal of it occurred with the tacit consent of the Federal Government, and the most part, the media either shared in the common prejudice, or simply ignored what was occurring.

Fortunately, we have the publication of the book ''Without Sanctuary'' by James Allen, Hilton Als, Congressman John Lewis, and Leon F. Litwak to serve as a focal point for our attention to this neglected history. This is a difficult book to examine. It serves as a catalog of inhuman crime perpetrated by very ordinary citizens. Looking at anything so tragic as the victims of these crimes would be disturbing, but that is not what will leave a lasting impression. It is the festive attitude, the smiles and smirks on the crowd gathered around the victim. They clearly take a perverse pride in this act. Hannah Arendt, the famous political philosopher, subtitled her book on Adolph Eichman's war crimes trials ''A Report on the Banality of Evil.'' When you look at the expressions on the faces of the murderers in these photos, that is all you can think about. These are not crazed killers, these are rational people going about their everyday lives, and committing unspeakable acts in the process.

Photos like these serve to remind us that a healthy society is not something that is built up over time, and then like a great monument, exists for centuries. Rather, a healthy society is a thin levee that must be constantly improved and maintained to hold back the worst instincts of mankind. I think the horrible pictures that came from Abu Gharib prison served as a reminder of this lesson. This book is even greater testimony that atrocities are not events that only occur in far off places. They can and have occurred here in the United States.

The only way to maintain a healthy society is to acknowledge and discuss our mistakes. No one would defend the Senate's filibuster of anti-lynching legislation today. I would like to think that any Senator who did so would quickly be looking for another line of work. However, despite the change of attitude we have taken no action to remedy our wrong. That is the purpose of this resolution today. I would like to extend my deep thanks to my courageous colleague, the Junior Senator from Virginia. He seemed to instantly understand the significance of this effort, and I believed it was vitally important to proceed with this resolution in a bipartisan manner. His input and drive have made this effort much more successful than it otherwise would have been.

It is our intention to submit this legislation today, and use the recess period to confer with our colleagues about it. When we reconvene next year, we will resubmit this resolution, and at that time, we hope to have the co-sponsorship of every member of this body. Then, we will endeavor to enact the resolution to commemorate Black History month.

I said ignorance allied with power is justice's most ferocious enemy. Yet imagine what truth allied with power can bring. For over 50 years, African American achievement was seen as a threat to the majority of people in this nation. It is time to close the book on that tragic period and begin to celebrate the achievements of black Americans as accomplishments that have bettered us all. I believe that this resolution of apology will be an important symbolic step in this process of healing and growth.

Mr. ALLEN. Mr. President, I rise today to speak in support of an anti-lynching resolution that Ms. LANDRIEU and I are submitting. Like all of my colleagues, I am proud to be a member of this Chamber, not for its grandeur, but because of the grand ideas it represents. It is here, on these same small desks where big ideas have been debated and argued through the course of our history for the greater good of our Nation. It is here in this Chamber, on this floor, where our Democracy reaches consensus from what our Founding Fathers called, the ''Will of the People.''

In the history of this Chamber, there have been many great minds and defenders of Freedom. One of those whose words still reverberate here today is Daniel Webster. Standing in the old Senate Chamber, Webster told his colleagues in 1834 that a ''representative of the people is a sentinel on the watch tower of liberty.''

I know that Webster was right. I believe throughout our history, the United States Senate has been a watchtower on Liberty. It has been venerated as the World's greatest deliberative body. The formidable British Member of Parliament, William Gladstone called the American Senate, ''that remarkable body, the most remarkable of all the inventions of modern politics.''

But unfortunately, this august body has a dark stain on its history. A stain that was borne of hatred, racism, and the blood of mostly African Americans who died from a noose, from flogging, from a torch, from the evil heart of men.

I rise today to offer a formal and heartfelt apology to all the victims of lynchings in our history—black, white, Jewish, Indian, Hispanic and Asian and the failure of the U.S. Senate to take action when action was most deserved.

The term ''lynching'' has its roots in my own beloved Commonwealth. Charles Lynch, a Virginia planter during the Revolutionary War meted out his own form of justice without a court. In Bedford County, Lynch persecuted Tories and Tory sympathizers without trial.

Soon, others who desired to thwart the rule of law and to trample on the rights of the accused used ''lynchings'' against the innocent or lightly accused.

This body stood by as these vile killings captivated front-page headlines, drew crowds with morbid curiosity and left thousands of mostly African Americans hanging from trees or bleeding to death from the lashings of whips. This body failed to act and in not acting, failed to protect the Liberty of which Webster spoke.

According to the archives of Tuskegee Institute, 4,749 Americans died by lynching starting in 1882. Two-thirds of these lynchings were perpetrated against black men, women, and children. Many were not lone acts by a few white men, but angry mobs whipped into frenzies by skewed mentalities of right and wrong.

One of those who suffered this awful fate was an African American named Zachariah Walker of Coatesville, VA. In 1911, Walker was dragged from a hospital bed where he was recovering from a gunshot wound. Accused of killing a white man—which he claimed was in self-defense—Walker was burned alive at the stake without a trial.

Such horrendous acts were not a regional phenomenon. Yes, it is true that most lynchings took place in Southern States. But, Illinois, Ohio, Michigan and even this city of Washington, D.C. experienced mob violence, making lynching not just a regional problem, but a national crime.

Yet, despite the national scope of these acts, the U.S. Senate failed to pass one of the estimated 200 anti-lynching bills introduced in Congress in the first half of the Twentieth Century. Three strong pieces of legislation were passed by the other body, but faced filibusters and failures to reach cloture on this Senate floor.

In the winter of 1937–38, one grisly lynching captivated this body's attention. The crime had happened in Mississippi the previous April. Two African Americans were taken from a jail. They were whipped and torched. Senator Champ Clark of Missouri posted photographs of the brutality back here in the cloakroom. For six weeks, this body debated. For six weeks! In the end, those in favor of an anti-lynching bill failed to enact cloture over the filibustering of others.

Historians will no doubt disagree as to a single reason that U.S. Senators blocked legislation to make lynching a federal crime. My desire here is not to get into motivations.

Regardless of their reasoning, our reason tells us that it was wrong and it is time to right it.

Thankfully, justice in our Nation has moved forward and left such despicable acts to history. But, this story can never be complete without an acknowledgement from this body that it failed to protect individual freedoms and rights.

It ignored the protection our Founding Fathers extended to those accused of crimes and the bedrock foundation of our system of justice that everyone is innocent until proven guilty. And, it turned its back on the most helpless in our society at a time when the weak needed protection.

I stand here today as a proud Senator from a Southern State. I look around this chamber and know of its abundance of honor and integrity throughout its history. Yet, we have not been perfect, especially on this issue. We failed our American ideals and we failed our citizens.

As Ephesians teaches us, ''all things that are reproved are made manifest by the light.''

My fellow Senators, this apology is too long in coming. I respectfully urge all of us to reprove this omission of history as a strong step never to be repeated in our future.

## SENATE RESOLUTION 443—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN UNITED STATES V. ROBERTO MARTIN

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 443

Whereas, in the case of *United States* v. *Roberto Martin*, Crim. No. 04–CR–20075, pending in Federal District Court in the Southern District of Florida, testimony and documents have been requested from an employee in the office of Senator Bob Graham;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved* that employees of Senator Graham's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the case of *United States* v. *Roberto Martin*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Graham's staff in the action referenced in section one of this resolution.

## SENATE RESOLUTION 444—CONGRATULATING AND COMMENDING THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AND ITS NATIONAL COMMANDER-IN-CHIEF, JOHN FURGESS OF TENNESSEE

Mr. FRIST (for himself, Mr. DASCHLE, Mr. SPECTER, Mr. ALEXANDER, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 444

Whereas the organization now known as the Veterans of Foreign Wars of the United States (''VFW'') was founded in Columbus, Ohio, on September 29, 1899;

Whereas the VFW represents approximately 2,000,000 veterans of the Armed Forces who served overseas in World War I, World War II, Korea, Vietnam, the Persian Gulf War, Bosnia, Iraq, and Afghanistan; and

Whereas the VFW has, for the past 105 years, provided voluntary and unselfish service to the Armed Forces and to veterans, communities, States, and the United States, and has worked toward the betterment of veterans in general and society as a whole: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the historic significance of the 105th anniversary of the founding of the Veterans of Foreign Wars of the United States (''VFW'');

(2) congratulates the VFW on achieving that milestone;

(3) commends the approximately 2,000,000 veterans who belong to the VFW and thanks them for their service to their fellow veterans and the United States; and

(4) recognizes the VFW's national Commander-in-Chief, John Furgess, for his service and dedication to the veterans of the United States.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3755. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3756. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3757. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3758. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3759. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3760. Mr. SARBANES (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3761. Mr. SPECTER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2845, supra.

SA 3762. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3763. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3764. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill S. 2806, making appropriations for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table.

SA 3765. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3766. Mr. MCCAIN proposed an amendment to the bill S. 2845, supra.

SA 3767. Mr. LAUTENBERG proposed an amendment to the bill S. 2845, supra.

SA 3768. Mr. BAUCUS (for himself, Mr. ROBERTS, Mr. CRAIG, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3769. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3770. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3771. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3772. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3773. Mr. BURNS proposed an amendment to amendment SA 3766 proposed by Mr. MCCAIN to the bill S. 2845, supra.

SA 3774. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3775. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3776. Mr. BURNS (for himself and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3777. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3778. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3779. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3780. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3781. Mr. WARNER (for himself and Mr. STEVENS) proposed an amendment to the bill S. 2845, supra.

SA 3782. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3783. Mr. SESSIONS (for Mr. INOUYE) proposed an amendment to the bill S. 2436, to reauthorize the Native American Programs Act of 1974.

SA 3784. Mr. SESSIONS (for Mr. CRAIG) proposed an amendment to the bill S. 2639, to reauthorize the Congressional Award Act.

SA 3785. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3786. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3787. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3788. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3789. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3790. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3791. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3792. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3793. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 3755.** Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 14, insert before the period the following: '', whether expressed in terms of geographic region, in terms of function, or in other terms''.

On page 95, line 3, insert after the period the following: ''Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.''.

On page 96, line 7, insert ''of the center and the personnel of the center'' after ''control''.

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 96, strike line 15 and all that follows through page 97, line 2, and insert the following:

(1) develop and unify a strategy for the collection and analysis of all-source intelligence;

(2) integrate intelligence collection, analysis, and planning for operations, both inside and outside the United States;

(3) develop interagency plans for the collection and analysis of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, coordination of agencies operational activities, recommendations for operational plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 98, beginning on line 20, strike ''to the extent practicable, approve the request'' and insert ''to the maximum extent possible. If a request is denied, the head of the department, agency, or element concerned shall provide the National Intelligence Director with a justification of the denial of such request. The National Intelligence Director may submit any request so denied to the National Security Council for resolution''.

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for each national intelligence center under this section.

On page 99, line 21, strike ''(g)'' and insert ''(i)''.

**SA 3756.** Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 8 and 9, insert the following:

**SEC. 153. ADDITIONAL EDUCATION AND TRAINING REQUIREMENTS.**

(a) FINDINGS.—Congress makes the following findings:

(1) Foreign language education is essential for the development of a highly-skilled workforce for the intelligence community.

(2) Since September 11, 2001, the need for language proficiency levels to meet required national security functions has been raised, and the ability to comprehend and articulate technical and scientific information in foreign languages has become critical.

(b) LINGUISTIC REQUIREMENTS.—(1) The National Intelligence Director shall—

(A) identify the linguistic requirements for the National Intelligence Authority;

(B) identify specific requirements for the range of linguistic skills necessary for the intelligence community, including proficiency in scientific and technical vocabularies of critical foreign languages; and

(C) develop a comprehensive plan for the Authority to meet such requirements through the education, recruitment, and training of linguists.

(2) In carrying out activities under paragraph (1), the Director shall take into account education grant programs of the Department of Defense and the Department of Education that are in existence as of the date of the enactment of this Act.

(3) Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director shall submit to Congress a report on the requirements identified under paragraph (1), including the success of the Authority in meeting such requirements. Each report shall notify Congress of any additional resources determined by the Director to be required to meet such requirements.

(4) Each report under paragraph (3) shall be in unclassified form, but may include a classified annex.

(c) PROFESSIONAL INTELLIGENCE TRAINING.—The National Intelligence Director shall require the head of each element and component within the National Intelligence Authority who has responsibility for professional intelligence training to periodically review and revise the curriculum for the professional intelligence training of the senior and intermediate level personnel of such element or component in order to—

(1) strengthen the focus of such curriculum on the integration of intelligence collection and analysis throughout the Authority; and

(2) prepare such personnel for duty with other departments, agencies, and element of the intelligence community.

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**SA 3757.** Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . TSA FIELD OFFICE INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS REPORT.**

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Congress, which may be transmitted in classified and redacted formats, setting forth—

(1) a descriptive list of each field office of the Transportation Security Administration, including its location, staffing, and facilities;

(2) an analysis of the information technology and telecommunications capabilities, equipment, and support available at each such office, including—

(A) whether the office has access to broadband telecommunications;

(B) whether the office has the ability to access Transportation Security Administration databases directly;

(C) the means available to the office for communicating and sharing information and other data on a real time basis with the Transportation Security Administration's national, regional, and State offices as well as with other Transportation Security Administration field offices;

(D) the means available to the office for communicating witli other Federal, State, and local government offices with transportation security related responsibilities; and

(E) whether and to what extent computers in the office are linked through a local area, network or otherwise, and whether the information technology resources available to the office are adequate to enable it to carry out its functions and purposes; and

(3) an assessment of current and future needs of the Transportation Security Administration to provide adequate information technology and telecommunications facilities, equipment, and support to its field offices, and an estimate of the costs of meeting those needs.

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**SA 3758.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16 and insert the following:

(2) The term ''foreign intelligence'' means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike ''counterintelligence or''.

On page 7, beginning on line 5, strike ''the Office of Intelligence of the Federal Bureau of Investigation'' and insert ''the Directorate of Intelligence of the Federal Bureau of Investigation''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''counterespionage'' means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term ''intelligence operation'' means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term ''collection and analysis requirements'' means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term ''collection and analysis tasking'' means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term ''certified intelligence officer'' means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike ''(e)'' and insert ''(f)''.

On page 123, line 17, strike ''(f)'' and insert ''(g)''.

On page 126, between lines 20 and 21, insert the following:

**SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.**

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

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**SA 3759.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 44, strike lines 22 and 23 and insert the following:

(4) The General Counsel of the Intelligence Community.

On page 45, strike lines 1 through 10 and insert the following:

(6) The Officer for Civil Rights and Civil Liberties of the Intelligence Community.

(7) The Privacy Officer of the Intelligence Community.

(8) The Chief Information Officer of the Intelligence Community.

(9) The Chief Human Capital Officer of the Intelligence Community.

(10) The Chief Financial Officer of the Intelligence Community.

On page 51, strike lines 6 through 24 and insert the following:

**SEC. 124. GENERAL COUNSEL OF THE INTELLIGENCE COMMUNITY.**

(a) GENERAL COUNSEL OF INTELLIGENCE COMMUNITY.—There is a General Counsel of the Intelligence Community who shall be appointed from civilian life by the President,

by and with the advice and consent of the Senate.

(b) PROHIBITION ON DUAL SERVICE AS GENERAL COUNSEL OF ANOTHER AGENCY.—The individual serving in the position of General Counsel of the Intelligence Community may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) SCOPE OF POSITION.—The General Counsel of the Intelligence Community is the chief legal officer of the intelligence community.

(d) FUNCTIONS.—The General Counsel of the Intelligence Community shall perform such functions as the National Intelligence Director may prescribe.

On page 52, strike line 21 and all that follows through page 53, line 7, and insert the following:

**SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE INTELLIGENCE COMMUNITY.**

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF INTELLIGENCE COMMUNITY.—There is an Officer for Civil Rights and Civil Liberties of the Intelligence Community who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall—

On page 53, beginning on line 14, strike ''National Intelligence Authority;'' and insert ''elements of the intelligence community; and''.

On page 53, beginning on line 18, strike ''within the National Intelligence Program''.

On page 53, strike lines 20 through 24.

On page 54, line 1, strike ''the Authority'' and insert ''the elements of the intelligence community''.

On page 54, line 11, strike ''the Authority'' and insert ''the elements of the intelligence community''.

On page 55, strike lines 1 through 15 and insert the following:

**SEC. 127. PRIVACY OFFICER OF THE INTELLIGENCE COMMUNITY.**

(a) PRIVACY OFFICER OF INTELLIGENCE COMMUNITY.—There is a Privacy Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the Intelligence Community shall have primary responsibility for the privacy policy of the intelligence community, including in the relationships among the elements of the intelligence community.

On page 56, strike lines 9 through 16 and insert the following:

**SEC. 128. CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.**

(a) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Information Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the Intelligence Community shall—

On page 57, strike line 1 and all that follows through page 59, line 7, and insert the following:

**SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE INTELLIGENCE COMMUNITY.**

(a) CHIEF HUMAN CAPITAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Human Capital Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the Intelligence Community shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the elements of the intelligence community; and

(2) otherwise advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community.

**SEC. 130. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.**

(a) CHIEF FINANCIAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Financial Officer of the Intelligence Community who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the Intelligence Community shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the Intelligence Community shall have such authorities, and carry out such functions, with respect to the elements of the intelligence community as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the Intelligence Community shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the Intelligence Community and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the Intelligence Community shall take appropriate actions to ensure the timely and effective integration of the financial systems of the elements of the intelligence community as soon as possible after the date of the enactment of this Act.

On page 60, strike lines 5 through 13 and insert the following:

**SEC. 141. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.**

(a) OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Office of the Inspector General of the Intelligence Community.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

On page 60, line 19, insert ''and'' at the end.

On page 60, line 22, strike ''and'' at the end.

On page 60, strike line 23 and all that follows through page 61, line 2.

On page 62, strike lines 1 through 7 and insert the following:

(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

On page 62, beginning on line 12 strike ''National Intelligence Authority'' and insert ''intelligence community''.

On page 63, beginning on line 2, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 63, beginning on line 8, strike '', the relationships among'' and all that follows through ''the other elements of the intelligence community'' and insert ''and the relationships among the elements of the intelligence community''.

On page 64, line 11, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 65, line 7, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 65, beginning on line 12, strike ''the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 66, line 2, strike ''the National Intelligence Authority'' and insert ''an element of the intelligence community''.

On page 67, beginning on line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 68, line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 69, line 3, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 69, line 22, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 70, line 1, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 70, beginning on line 12, strike ''National Intelligence Authority'' and insert ''elements of the intelligence community''.

On page 71, beginning on line 16, strike ''the Authority'' and insert ''any element of the intelligence community''.

On page 72, beginning on line 3, strike ''the Authority'' and all that follows through line 8 and insert ''an element of the intelligence community or in a relationship between the elements of the intelligence community.''.

On page 72, beginning on line 21, strike ''Authority official who holds or held a position in the Authority'' and insert ''an official of an element of the intelligence community who holds or held in such element a position''.

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee of any entity other than an element of the intelligence community who is assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

On page 77, beginning on line 17, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 77, strike line 19 and all that follows through page 78, line 2, and insert the following:

**SEC. 142. OMBUDSMAN OF THE INTELLIGENCE COMMUNITY.**

(a) OMBUDSMAN OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Ombudsman of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Ombudsman of the Intelligence Community shall—

On page 78, beginning on line 6, strike ''the National Intelligence Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 78, beginning on line 14, strike ''the Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 78, beginning on line 20, strike ''the Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 79, beginning on line 4, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 79, line 7, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 79, strike lines 18 through 25 and insert the following:

(B) The elements of the intelligence community, including the divisions, offices, programs, officers, and employees of such elements.

On page 80, line 8, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 80, beginning on line 14, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 80, beginning on line 20, strike ''the National Intelligence Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 81, beginning on line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 204, strike lines 1 through 3 and insert the following:

**SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.**

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**SA 3760.** Mr. SARBANES (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, line 5, strike ''and''.

On page 158, line 9, strike the period and insert ''; and''.

On page 158, insert between lines 9 and 10, the following:

(C) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement.

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**SA 3761.** Mr. SPECTER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 10, between lines 16 and 17, insert the following:

(d) TERM OF OFFICE; REMOVAL.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

On page 10, line 17, strike ''(d)'' and insert ''(e)''.

On page 11, line 3, strike ''(e)'' and insert ''(f)''.

On page 11, line 5, strike ''subsection (c)'' and insert ''subsection (e)''.

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**SA 3762.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 18 and 19, insert the following:

(3) The National Intelligence Director shall establish formal mechanisms to ensure the regular sharing of information and analysis by national intelligence centers having adjacent geographic regions of intelligence responsibility or otherwise having significant connections in areas of intelligence responsibility.

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**SA 3763.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 117, strike line 1 and all that follows through page 118, line 7.

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**SA 3764.** Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill S. 2806, making appropriations for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.**

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the ''Administrator'') shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the Government Accountability Office numbered GAO-04-113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State.

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**SA 3765.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert the following:

**SEC. ____. HOMELAND SECURITY GEOGRAPHIC INFORMATION.**

(a) FINDINGS.—Congress finds that—

(1) geographic technologies and geographic data improve government capabilities to detect, plan, prepare, and respond to disasters in order to save lives and protect property;

(2) geographic data improves the ability of information technology applications and systems to enhance public security in a cost-effective manner; and

(3) geographic information preparedness in the United States, and specifically in the Department of Homeland Security, is insufficient because of—

(A) inadequate geographic data compatibility;

(B) insufficient geographic data sharing; and

(C) technology interoperability barriers.

(b) HOMELAND SECURITY GEOGRAPHIC INFORMATION.—Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Chief Information''; and

(2) by adding at the end the following:

''(b) GEOGRAPHIC INFORMATION FUNCTIONS.—

''(1) DEFINITION.—In this subsection, the term 'geographic information' means the information systems that involve locational data, such as maps or other geospatial information resources.

''(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

''(A) ESTABLISHMENT.—The Office of Geospatial Management is established within the Office of the Chief Information Officer.

''(B) GEOSPATIAL INFORMATION OFFICER.—

''(i) APPOINTMENT.—The Office of Geospatial Management shall be administered by the Geospatial Information Officer, who shall be appointed by the Secretary and serve under the direction of the Chief Information Officer.

''(ii) FUNCTIONS.—The Geospatial Information Officer shall assist the Chief Information Officer in carrying out all functions under this section and in coordinating the geographic information needs of the Department.

''(C) COORDINATION OF GEOGRAPHIC INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geographic information, which shall include—

''(i) providing such geographic information as may be necessary to implement the critical infrastructure protection programs;

''(ii) providing leadership and coordination in meeting the geographic information requirements of those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure protection, and other functions of the Department; and

''(iii) coordinating with users of geographic information within the Department to assure interoperability and prevent unnecessary duplication.

''(D) RESPONSIBILITIES.—In carrying out this subsection, the responsibilities of the Chief Information Officer shall include—

''(i) coordinating the geographic information needs and activities of the Department;

''(ii) implementing standards, as adopted by the Director of the Office of Management and Budget under the processes established under section 216 of the E-Government Act of

2002 (44 U.S.C. 3501 note), to facilitate the interoperability of geographic information pertaining to homeland security among all users of such information within—

''(I) the Department;

''(II) State and local government; and

''(III) the private sector;

''(iii) coordinating with the Federal Geographic Data Committee and carrying out the responsibilities of the Department pursuant to Office of Management and Budget Circular A–16 and Executive Order 12906; and

''(iv) making recommendations to the Secretary and the Executive Director of the Office for State and Local Government Coordination and Preparedness on awarding grants to—

''(I) fund the creation of geographic data; and

''(II) execute information sharing agreements regarding geographic data with State, local, and tribal governments.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each fiscal year.''.

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**SA 3766.** Mr. MCCAIN proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

**TITLE —PUBLIC SAFETY SPECTRUM**

**SEC. —01. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the ''Spectrum Availability for Emergency-Response and Law-Enforcement To Improve Vital Emergency Services Act'' or the ''SAVE LIVES Act''.

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

Sec. —01. Short title; table of contents.
Sec. —02. Findings.
Sec. —03. Setting a specific date for the availability of spectrum for public safety organizations and creating a deadline for the transition to digital television.
Sec. —04. Studies of communications capabilities and needs.
Sec. —05. Statutory authority for the Department of Homeland Security's ''SAFECOM'' program.
Sec. —06. Grant program to provide enhanced interoperability of communications for first responders.
Sec. —07. Digital transition public safety communications grant and consumer assistance fund.
Sec. —08. Digital transition program.
Sec. —09. Label requirement for analog television sets.
Sec. —10. Report on consumer education program requirements.
Sec. —11. FCC to issue decision in certain proceedings.
Sec. —12. Definitions.
Sec. —13. Effective date.

**SEC. —02. FINDINGS.**

The Congress finds the following:

(1) In its final report, the 9-11 Commission advocated that Congress pass legislation providing for the expedited and increased assignment of radio spectrum for public safety purposes. The 9-11 Commission stated that this spectrum was necessary to improve communications between local, State and Federal public safety organizations and public safety organizations operating in neighboring jurisdictions that may respond to an emergency in unison.

(2) Specifically, the 9-11 Commission report stated ''The inability to communicate was a critical element at the World Trade Center, Pentagon and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.''.

(3) In the Balanced Budget Act of 1997, the Congress directed the FCC to allocate spectrum currently being used by television broadcasters to public safety agencies to use for emergency communications. This spectrum has specific characteristics that make it an outstanding choice for emergency communications because signals sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

(4) This spectrum will not be fully available to public safety agencies until the completion of the digital television transition. The need for this spectrum is greater than ever. The nation cannot risk further loss of life due to public safety agencies' first responders' inability to communicate effectively in the event of another terrorist act or other crisis, such as a hurricane, tornado, flood, or earthquake.

(5) In the Balanced Budget Act of 1997, Congress set a date of December 31, 2006, for the termination of the digital television transition. Under current law, however, the deadline will be extended if fewer than 85 percent of the television households in a market are able to continue receiving local television broadcast signals.

(6) Federal Communications Commission Chairman Michael K. Powell testified at a hearing before the Senate Commerce, Science, and Transportation Committee on September 8, 2004, that, absent government action, this extension may allow the digital television transition to continue for ''decades'' or ''multiples of decades''.

(7) The Nation's public safety and welfare cannot be put off for ''decades'' or ''multiples of decades''. The Federal government should ensure that this spectrum is available for use by public safety organizations by January 1, 2009.

(8) Any plan to end the digital television transition would be incomplete if it did not ensure that consumers would be able to continue to enjoy over-the-air broadcast television with minimal disruption. If broadcasters air only a digital signal, some consumers may be unable to view digital transmissions using their analog-only television set. Local broadcasters are truly an important part of our homeland security and often an important communications vehicle in the event of a national emergency. Therefore, consumers who rely on over-the-air television, particularly those of limited economic means, should be assisted.

(9) The New America Foundation has testified before Congress that the cost to assist these 17.4 million exclusively over-the-air households to continue to view television is less than $1 billion dollars for equipment, which equates to roughly 3 percent of the Federal revenue likely from the auction of the analog television spectrum.

(10) Specifically, the New America Foundation has estimated that the Federal Government's auction of this spectrum could yield $30-to-$40 billion in revenue to the Treasury. Chairman Powell stated at the September 8, 2004, hearing that ''estimates of the value of that spectrum run anywhere from $30 billion to $70 billion''.

(11) Additionally, there will be societal benefits with the return of the analog broadcast spectrum. Former FCC Chairman Reed F. Hundt, at an April 28, 2004, hearing before the Senate Commerce, Science, and Transportation Committee, testified that this spectrum ''should be the fit and proper home of wireless broadband''. Mr. Hundt continued, ''Quite literally, [with this spectrum] the more millions of people in rural America will be able to afford Big Broadband Internet access, the more hundreds of millions of people in the world will be able to afford joining the Internet community.''.

(12) Due to the benefits that would flow to the Nation's citizens from the Federal Government reclaiming this analog television spectrum—including the safety of our Nation's first responders and those protected by first responders, additional revenues to the Federal treasury, millions of new jobs in the telecommunications sector of the economy, and increased wireless broadband availability to our Nation's rural citizens—Congress finds it necessary to set January 1, 2009, as a firm date for the return of this analog television spectrum.

**SEC. 3. SETTING A SPECIFIC DATE FOR THE AVAILABILITY OF SPECTRUM FOR PUBLIC SAFETY ORGANIZATIONS AND CREATING A DEADLINE FOR THE TRANSITION TO DIGITAL TELEVISION.**

(a) IN GENERAL.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) by striking ''2006.'' in subparagraph (A) and inserting ''2008.'';

(2) by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C);

(3) by striking ''subparagraph (A) or (B),'' in subparagraph (B), as redesignated, and inserting ''subparagraph (A),'';

(4) by striking ''subparagraph (C)(i),'' in subparagraph (C), as redesignated, and inserting ''subparagraph (B)(i),''; and

(5) by adding at the end the following:

''(D) ACCELERATION OF DEADLINE FOR PUBLIC SAFETY USE.—

''(i) Notwithstanding subparagraph (A), the Commission shall take all action necessary to complete by December 31, 2007—

''(I) the return of television station licenses operating on channels between 764 and 776 megaHertz and between 794 and 806 megaHertz; and

''(II) assignment of the electromagnetic spectrum between 764 and 776 megahertz, and between 794 and 806 megahertz, for public safety services.

''(ii) Notwithstanding subparagraph (A), the Commission may modify, reassign, or require the return of, the television station licenses assigned to frequencies between 758 and 764 megahertz, 776 and 782 megahertz, and 788 and 794 megahertz as necessary to permit operations by public safety services on frequencies between 764 and 776 megahertz and between 794 and 806 megahertz, after the date of enactment of the SAVES LIVES Act, but such modifications, reassignments, or returns may not take effect until after December 31, 2007.''.

(b) CERTAIN COMMERCIAL USE SPECTRUM.—The Commission shall assign the spectrum described in section 337(a)(2) of the Communications Act of 1934 (47 U.S.C. 337(a)(2)) allocated for commercial use by competitive bidding pursuant to section 309(j) of that Act (47 U.S.C. 309(j)) no later than 1 year after the Commission transmits the report required by section 4(a) to the Congress.

**SEC. —04. STUDIES OF COMMUNICATIONS CAPABILITIES AND NEEDS.**

(a) IN GENERAL.—The Commission, in consultation with the Secretary of Homeland Security, shall conduct a study to assess

strategies that may be used to meet public safety communications needs, including—

(1) the short-term and long-term need for additional spectrum allocation for Federal, State, and local first responders, including an additional allocation of spectrum in the 700 megaHertz band;

(2) the need for a nationwide interoperable broadband mobile communications network;

(3) the ability of public safety entities to utilize wireless broadband applications; and

(4) the communications capabilities of first receivers such as hospitals and health care workers, and current efforts to promote communications coordination and training among the first responders and the first receivers.

(b) REALLOCATION STUDY.—The Commission shall conduct a study to assess the advisability of reallocating any amount of spectrum in the 700 megaHertz band for unlicensed broadband uses. In the study, the Commission shall consider all other possible users of this spectrum, including public safety.

(c) REPORT.—The Commission shall report the results of the studies, together with any recommendations it may have, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 1 year after the date of enactment of this Act.

**SEC. —05. STATUTORY AUTHORITY FOR THE DEPARTMENT OF HOMELAND SECURITY'S "SAFECOM" PROGRAM.**

Section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The''; and

(2) by adding at the end the following:

''(b) SAFECOM AUTHORIZED.—

''(1) IN GENERAL.—In carrying out subsection (a), the Under Secretary shall establish a program to address the interoperability of communications devices used by Federal, State, tribal, and local first responders, to be known as the Wireless Public Safety Interoperability Communications Program, or 'SAFECOM'. The Under Secretary shall coordinate the program with the Director of the Department of Justice's Office of Science and Technology and all other Federal programs engaging in communications interoperability research, development, and funding activities to ensure that the program takes into account, and does not duplicate, those programs or activities.

''(2) COMPONENTS.—The program established under paragraph (1) shall be designed—

''(A) to provide research on the development of a communications system architecture that would ensure the interoperability of communications devices among Federal, State, tribal, and local officials that would enhance the potential for a coordinated response to a national emergency;

''(B) to support the completion and promote the adoption of mutually compatible voluntary consensus standards developed by a standards development organization accredited by the American National Standards Institute to ensure such interoperability; and

''(C) to provide for the development of a model strategic plan that could be used by any State or region in developing its communications interoperability plan.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection—

''(A) $22,105,000 for fiscal year 2005;

''(B) $22,768,000 for fiscal year 2006;

''(C) $23,451,000 for fiscal year 2007;

''(D) $24,155,000 for fiscal year 2008; and

''(E) $24,879,000 for fiscal year 2009.

''(c) NATIONAL BASELINE STUDY OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY.—By December 31, 2005, the Under Secretary of Homeland Security for Science and Technology shall complete a study to develop a national baseline for communications interoperability and develop common grant guidance for all Federal grant programs that provide communications-related resources or assistance to State and local agencies, any Federal programs conducting demonstration projects, providing technical assistance, providing outreach services, providing standards development assistance, or conducting research and development with the public safety community with respect to wireless communications. The Under Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing the Under Secretary's findings, conclusions, and recommendations from the study.''.

**SEC. —06. GRANT PROGRAM TO PROVIDE ENHANCED INTEROPERABILITY OF COMMUNICATIONS FOR FIRST RESPONDERS.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program to help State, local, tribal, and regional first responders acquire and deploy interoperable communications equipment, purchase such equipment, and train personnel in the use of such equipment. The Secretary, in cooperation with the heads of other Federal departments and agencies who administer programs that provide communications-related assistance programs to State, local, and tribal public safety organizations, shall develop and implement common standards to the greatest extent practicable.

(b) APPLICATIONS.—To be eligible for assistance under the program, a State, local, tribal, or regional first responder agency shall submit an application, at such time, in such form, and containing such information as the Under Secretary of Homeland Security for Science and Technology may require, including—

(1) a detailed explanation of how assistance received under the program would be used to improve local communications interoperability and ensure interoperability with other appropriate Federal, State, local, tribal, and regional agencies in a regional or national emergency;

(2) assurance that the equipment and system would—

(A) not be incompatible with the communications architecture developed under section 302(b)(2)(A) of the Homeland Security Act of 2002;

(B) would meet any voluntary consensus standards developed under section 302(b)(2)(B) of that Act; and

(C) be consistent with the common grant guidance established under section 302(b)(3) of the Homeland Security Act of 2002.

(c) GRANTS.—The Under Secretary shall review applications submitted under subsection (b). The Secretary, pursuant to an application approved by the Under Secretary, may make the assistance provided under the program available in the form of a single grant for a period of not more than 3 years.

**SEC. —07. DIGITAL TRANSITION PUBLIC SAFETY COMMUNICATIONS GRANT AND CONSUMER ASSISTANCE FUND.**

(a) IN GENERAL.—There is established on the books of the Treasury a separate fund to be known as the ''Digital Transition Consumer Assistance Fund'', which shall be administered by the Secretary, in consultation with the Assistant Secretary of Commerce for Communications and Information.

(b) CREDITING OF RECEIPTS.—The Fund shall be credited with the amount specified in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

(c) FUND AVAILABILITY.—

(1) APPROPRIATIONS.—

(A) CONSUMER ASSISTANCE PROGRAM.—There are appropriated to the Secretary from the Fund such sums, not to exceed $1,000,000,000, as are required to carry out the program established under section 8 of this Act.

(B) PSO GRANT PROGRAM.—To the extent that amounts available in the Fund exceed the amount required to carry out that program, there are authorized to be appropriated to the Secretary of Homeland Security, such sums as are required to carry out the program established under section 6 of this Act, not to exceed an amount, determined by the Director of the Office of Management and Budget, on the basis of the findings of the National Baseline Interoperability study conducted by the SAFECOM Office of the Department of Homeland Security.

(2) REVERSION OF UNUSED FUNDS.—Any auction proceeds in the Fund that are remaining after the date on which the programs under section 6 and 8 of this Act terminate, as determined by the Secretary of Homeland Security and the Secretary of Commerce respectively, shall revert to and be deposited in the general fund of the Treasury.

(d) DEPOSIT OF AUCTION PROCEEDS.—Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by inserting ''or subparagraph (D)'' in subparagraph (A) after ''subparagraph (B)''; and

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

''(D) DISPOSITION OF CASH PROCEEDS FROM AUCTION OF CHANNELS 52 THROUGH 69.—Cash proceeds attributable to the auction of any eligible frequencies between 698 and 806 megaHertz on the electromagnetic spectrum conducted after the date of enactment of the SAVE LIVES Act shall be deposited in the Digital Transition Consumer Assistance Fund established under section 7 of that Act.''.

**SEC. —08. DIGITAL TRANSITION PROGRAM.**

(a) IN GENERAL.—The Secretary, in consultation with the Commission and the Director of the Office of Management and Budget, shall establish a program to assist households—

(1) in the purchase or other acquisition of digital-to-analog converter devices that will enable television sets that operate only with analog signal processing to continue to operate when receiving a digital signal;

(2) in the payment of a one-time installation fee (not in excess of the industry average fee for the date, locale, and structure involved, as determined by the Secretary) for installing the equipment required for residential reception of services provided by a multichannel video programming distributor (as defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 602(13)); or

(3) in the purchase of any other device that will enable the household to receive over-the-air digital television broadcast signals, but in an amount not in excess of the average per-household assistance provided under paragraphs (1) and (2).

(b) PROGRAM CRITERIA.—The Secretary shall ensure that the program established under subsection (a)—

(1) becomes publicly available no later than January 1, 2008;

(2) gives first priority to assisting lower income households (as determined by the Director of the Bureau of the Census for statistical reporting purposes) who rely exclusively on over-the-air television broadcasts;

(3) gives second priority to assisting other households who rely exclusively on over-the-air television broadcasts;

(4) is technologically neutral; and

(5) is conducted at the lowest feasible administrative cost.

**SEC. —09. LABEL REQUIREMENT FOR ANALOG TELEVISION SETS.**

(a) IN GENERAL.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

''(z) Require that any apparatus described in paragraph (s) sold or offered for sale in or affecting interstate commerce after September 30, 2005, that is incapable of receiving and displaying a digital television broadcast signal without the use of an external device that translates digital television broadcast signals into analog television broadcast signals have affixed to it and, if it is sold or offered for sale in a container, affixed to that container, a label that states that the apparatus will be incapable of displaying over-the-air television broadcast signals received after December 31, 2008, without the purchase of additional equipment.''.

(b) SHIPMENT PROHIBITED.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) SHIPMENT OF UNLABELED OBSOLESCENT TELEVISION SETS.—No person shall ship in interstate commerce or manufacture in the United States any apparatus described in section 303(s) of this Act except in accordance with rules prescribed by the Commission under section 303(z) of this Act.''.

(c) POINT OF SALE WARNING.—The Commission, in consultation with the Federal Trade Commission, shall require the display at, or in close proximity to, any commercial retail sales display of television sets described in section 303(z) of the Communications Act of 1934 (47 U.S.C. 303(z)) sold or offered for sale in or affecting interstate commerce after September 30, 2005, of a printed notice that clearly and conspicuously states that the sets will be incapable of displaying over-the-air television broadcast signals received after December 31, 2008, without the purchase or lease of additional equipment.

**SEC. —10. REPORT ON CONSUMER EDUCATION PROGRAM REQUIREMENTS.**

Within 1 year after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information, after consultation with the Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing recommendations with respect to—

(1) an effective program to educate consumers about the transition to digital television broadcast signals and the impact of that transition on consumers' choices of equipment to receive such signals;

(2) the need, if any, for Federal funding for such a program;

(3) the date of commencement and duration of such a program; and

(4) what department or agency should have the lead responsibility for conducting such a program.

**SEC. —11. FCC TO ISSUE DECISION IN CERTAIN PROCEEDINGS.**

The Commission shall issue a final decision before—

(1) January 1, 2005, in the Matter of Carriage of Digital Television Broadcast Signals; Amendments to Part 76 of the Commission's Rules, CS Docket No. 98-120;

(2) January 1, 2005, in the Matter of Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360; and

(3) January 1, 2006, in the Implementation of the Satellite Home Viewer Improvement Act of 1999; Local Broadcast Signal Carriage Issues, CS Docket No. 00-96.

**SEC. —12. DEFINITIONS.**

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) FUND.—The term ''Fund'' means the Digital Transition Consumer Assistance Fund established by section 7.

(3) SECRETARY.—Except where otherwise expressly provided, the term ''Secretary'' means the Secretary of Commerce.

**SEC. —13. EFFECTIVE DATE.**

This title takes effect on the date of enactment of this Act.

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**SA 3767.** Mr. LAUTENBERG proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 10, line 2, insert ''(1)'' after ''DIRECTOR.—''.

On page 10, line 5, insert '', for a term of up to 5 years'' after ''Senate''.

On page 10, after line 5, insert the following:

(2) The National Intelligence Director may be reappointed by the President for additional terms of up to 5 years each, by and with the consent of the Senate.

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**SA 3768.** Mr. BAUCUS (for himself, Mr. ROBERTS, Mr. CRAIG, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new section:

**SEC. 353. ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury should allocate the resources of the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States in a manner that enforcing such sanctions—

(1) against al Qaeda and groups affiliated with al Qaeda is the highest priority of the Office;

(2) against members of the insurgency in Iraq is the second highest priority of the Office; and

(3) against Iran is the third highest priority of the Office.

(b) REQUIREMENT FOR ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury, in consultation with the National Intelligence Director, shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(c) CONTENT OF ANNUAL REPORT.—An annual report required by subsection (b) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

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**SA 3769.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**CLARIFICATION OF PRIVATE RIGHT OF ACTION AGAINST TERRORIST STATES; DAMAGES.**

(a) RIGHT OF ACTION.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (f), in the first sentence, by inserting ''or (h)'' after ''subsection (a)(7)''; and

(2) by adding at the end the following:

''(h) CERTAIN ACTIONS AGAINST FOREIGN STATES OR OFFICIALS, EMPLOYEES, OR AGENTS OF FOREIGN STATES—

''(1) CAUSE OF ACTION.—

''(A) CAUSE OF ACTION.—A foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or an official, employee, or agent of such a foreign state, shall be liable to a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) or the national's legal representative for personal injury or death caused by acts of that foreign state, or by that official, employee, or agent while acting within the scope of his or her office, employment, or agency, for which the courts of the United States may maintain jurisdiction under subsection (a)(7) for money damages. The removal of a foreign state from designation as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) shall not terminate this cause of action.

''(B) DISCOVERY.—The provisions of subsection (g) apply to actions brought under subparagraph (A).

''(C) NATIONALITY OF CLAIMANT.—No action shall be maintained under subparagraph (A) arising from acts of a foreign state or an official, employee, or agent of a foreign state if neither the claimant nor the victim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when such acts occurred.

''(2) DAMAGES.—In an action brought under paragraph (1) against a foreign state or an official, employee, or agent of a foreign

state, the foreign state, official, employee, or agent, as the case may be, may be held liable for money damages in such action, which may include economic damages, solatium, damages for pain and suffering, and, notwithstanding section 1606, punitive damages. In all actions brought under paragraph (1), a foreign state shall be vicariously liable for the actions of its officials, employees, or agents.

''(3) APPEALS.—An appeal in the courts of the United States in an action brought under paragraph (1) may be made—

''(A) only from a final decision under section 1291 of this title, and then only if filed with the clerk of the district court within 30 days after the entry of such final decision; and

''(B) in the case of an appeal from an order denying the immunity of a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, only if filed under section 1292 of this title.''.

(b) CONFORMING AMENDMENT.—Section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as contained in section 101(a) of Division A of Public Law 104–208 (110 Stat. 3009–172; 28 U.S.C. 1605 note), is repealed.

**PROPERTY SUBJECT TO ATTACHMENT EXECUTION.**

Section 1610 of title 28, United States Code, is amended by adding at the end the following:

''(g) PROPERTY INTERESTS IN CERTAIN ACTIONS.—

''(1) IN GENERAL.—A property interest of a foreign state, or agency or instrumentality of a foreign state, against which a judgment is entered under section 1605(a)(7), including a property interest that is a separate juridical entity, is subject to execution upon that judgment as provided in this section, regardless of—

''(A) the level of economic control over the property interest by the government of the foreign state;

''(B) whether the profits of the property interest go to that government;

''(C) the degree to which officials of that government manage the property interest or otherwise have a hand in its daily affairs,

''(D) whether that government is the real beneficiary of the conduct of the property interest; or

''(E) whether establishing the property interest as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

''(2) U.S. SOVEREIGN IMMUNITY INAPPLICABLE.—Any property interest of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from execution upon a judgment entered under section 1605(a)(7) because the property interest is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.''

**APPOINTMENT OF SPECIAL MASTERS.**

(a) VICTIMS OF CRIME ACT.—Section 1404C(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603c(a)(3)) is amended by striking ''December 21, 1988, with respect to which an investigation or'' and inserting ''October 23, 1983, with respect to which an investigation or civil or criminal''.

(b) JUSTICE FOR MARINES.—The Attorney General of the United States is authorized and directed to transfer such Victims of Crime Act Funds to the Administrator of the US District Court for District of Columbia as may be required to carry out the Orders of United States District Judge Royce C. Lamberth appointing Special Masters in the matter of Peterson, et al v. The Islamic Republic of Iran, Case No 01CV02094 (RCL)''

**LIS PENDENS.**

(a) In every action filed in a United States Court in which jurisdiction is alleged under 28 U.S.C. §1605(a)(7) the filing of a ''Notice of Pending Action Pursuant to 28 U.S.C. §1605(a)(7)'' to which shall be attached a copy of the Complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property located within that judicial district titled in the name of any defendant or titled in the name of any entity controlled by any such defendant, provided that such notice contains a statement of said entities controlled by any such defendant. A Notice of Pending Action Pursuant to 28 U.S.C. §1605(a)(7) shall be filed by the Clerk of the District Court in the same manner as any pending action and shall be indexed listing as defendants all named defendants and all entities listed as controlled by any defendant.

(b) Liens established as provided in this section shall be enforceable as provided by 28 U.S.C. Ch.111.

**APPLICABILITY.**

(a) IN GENERAL.—The amendments made by this Act apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of the enactment of this Act.

(b) Prior Causes of Action–In the case of any action that—

(1) was brought in a timely manner but was dismissed before the enactment of this Act for failure to state a cause of action, and

(2) would be cognizable by reason of the amendments made by this Act, the 10-year limitation period provided under section 1605(f) of title 28, United States Code, shall be tolled during the period beginning on the date on which the action was first brought and ending 60 days after the date of the enactment of this Act.

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**SA 3770.** Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

**TITLE IV—SAFE STORAGE OF RADIOLOGICAL MATERIALS**

**SECTION 401. DISPOSAL OF CERTAIN LOW-LEVEL RADIOACTIVE WASTE.**

(a) FINDINGS.—Congress makes the following findings:

(1) According to the report of the National Commission on Terrorist Attacks Upon the United States, more than two dozen terrorist groups, including al Qaeda, are pursuing chemical, biological, radiological, and nuclear materials.

(2) According to the report of the National Commission on Terrorist Attacks Upon the United States, the United States is a prime target for weapons made with chemical, biological, radiological, and nuclear materials.

(3) The Department of Energy estimates that about 14,000 sealed sources of greater-than-Class C low-level radioactive waste (as defined in section 61.55 of title 10, Code of Federal Regulations) will become unwanted and will have to be disposed of through the Offsite Source Recovery Program by 2010.

(4) The Department of Energy—

(A) does not have the resources or storage facility to recover and store all unwanted sources of greater-than-Class C low-level radioactive waste; and

(B) has not identified a permanent disposal facility.

(5) A report by the Government Accountability Office entitled ''Nuclear Proliferation: DOE Action Needed to Ensure Continued Recovery of Unwanted Sealed Radioactive Sources'' states that ''[t]he small size and portability of the sealed sources make them susceptible to misuse, improper disposal, and theft. If these sealed sources fell into the hands of terrorists, they could be used as simple and crude but potentially dangerous radiological weapons, commonly called dirty bombs.''

(6) The Government Accountability Office report further states that ''[c]ertain sealed sources are considered particularly attractive for potential use in producing dirty bombs because, among other things, they contain more concentrated amounts of nuclear material known as 'greater-than-Class-C material.'''

(b) DEPARTMENT OF ENERGY RESPONSIBILITIES.—

(1) DESIGNATION OF RESPONSIBILITY.—The Secretary of Energy shall designate an entity within the Department of Energy to have the responsibility of completing activities needed to develop a facility for safely disposing of all greater-than-Class C low-level radioactive waste.

(2) CONSULTATION WITH CONGRESS.—In developing a plan for a permanent disposal facility for greater-than-Class C low-level radioactive waste (including preparation of an environmental impact statement and issuance of a record of decision), the Secretary of Energy shall consult with Congress.

(c) REPORTS.—

(1) UPDATE OF 1987 REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress an update of the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive waste that was submitted by the Secretary to Congress in February 1987.

(B) CONTENTS.—The update shall contain—

(i) an identification of the radioactive waste that is to be disposed of (including the source of the waste and the volume, concentration, and other relevant characteristics of the waste);

(ii) an identification of the Federal and non-Federal options for disposal of the waste;

(iii) a description of the actions proposed to ensure the safe disposal of the waste;

(iv) an estimate of the costs of the proposed actions;

(v) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of the radioactive waste bear all reasonable costs of disposing of the waste;

(vi) an identification of any statutory authority required for disposal of the waste; and

(vii) in coordination with the Environmental Protection Agency and the Nuclear Regulatory Commission, an identification of any regulatory guidance needed for the disposal of the waste.

(2) REPORT ON PERMANENT DISPOSAL FACILITY.—

(A) REPORT ON COST AND SCHEDULE FOR COMPLETION OF EIS AND ROD.—Not later than 180 days after the date of submission of the update under paragraph (1), the Secretary of Energy shall submit to Congress a report containing an estimate of the cost and schedule to complete an environmental impact statement and record of decision for a permanent disposal facility for greater-than-Class C radioactive waste.

(B) REPORT ON ALTERNATIVES.—Before the Secretary of Energy makes a final decision on the disposal alternative to be implemented, the Secretary of Energy shall—

(i) submit to Congress a report that describes all alternatives under consideration; and

(ii) await action by Congress.

(3) REPORT ON SHORT-TERM PLAN.—

(A) IN GENERAL.—Not later than December 31, 2005, the Secretary of Energy shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive waste until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall contain estimated cost, resource, and facility needs.

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**SA 3771.** Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, between lines 12 and 13, insert the following:

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 35 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with the National Counterterrorism Center under this paragraph.

On page 98, between lines 21 and 22, insert the following:

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 35 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with a national intelligence center under this paragraph.

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**SA 3772.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 10 and 11, insert the following:

(11) The Chief Scientist of the National Intelligence Authority.

On page 45, line 11, strike ''(11)'' and insert ''(12)''.

On page 45, line 14, strike ''(12)'' and insert ''(13)''.

On page 59, between lines 14 and 15, insert the following:

**SEC. 131. CHIEF SCIENTIST OF THE NATIONAL INTELLIGENCE AUTHORITY.**

(a) CHIEF SCIENTIST OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Scientist of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) REQUIREMENT RELATING TO APPOINTMENT.—An individual appointed as Chief Scientist of the National Intelligence Authority shall have a professional background and experience appropriate for the duties of the Chief Scientist.

(c) DUTIES.—The Chief Scientist of the National Intelligence Authority shall—

(1) act as the chief representative of the National Intelligence Director for science and technology;

(2) chair the National Intelligence Authority Science and Technology Committee under subsection (d);

(3) assist the Director in formulating a long-term strategy for scientific advances in the field of intelligence;

(4) assist the Director on the science and technology elements of the budget of the National Intelligence Authority; and

(5) perform other such duties as may be prescribed by Director or by law.

(d) NATIONAL INTELLIGENCE AUTHORITY SCIENCE AND TECHNOLOGY COMMITTEE.—(1) There is within the Office of the Chief Scientist of the National Intelligence Authority a National Intelligence Authority Science and Technology Committee.

(2) The Committee shall be composed of composed of the principal science officers of the National Intelligence Program.

(3) The Committee shall—

(A) coordinate advances in research and development related to intelligence; and

(B) perform such other functions as the Chief Scientist of the National Intelligence Authority shall prescribe.

On page 59, line 15, strike ''**131.**'' and insert ''**132.**''.

On page 202, line 16, strike ''131(b)'' and insert ''132(b)''.

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**SA 3773.** Mr. BURNS proposed an amendment to amendment SA 3766 proposed by Mr. MCCAIN to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

**TITLE —PUBLIC SAFETY SPECTRUM**

**SEC. —01. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the ''Spectrum Availability for Emergency-Response and Law-Enforcement To Improve Vital Emergency Services Act'' or the ''SAVE LIVES Act''.

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

Sec. —01. Short title; table of contents.
Sec. —02. Findings.
Sec. —03. Setting a specific date for the availability of spectrum for public safety organizations and creating a deadline for the transition to digital television.
Sec. —04. Studies of communications capabilities and needs.
Sec. —05. Statutory authority for the Department of Homeland Security's ''SAFECOM'' program.
Sec. —06. Grant program to provide enhanced interoperability of communications for first responders.
Sec. —07. Digital transition public safety communications grant and consumer assistance fund.
Sec. —08. Digital transition program.
Sec. —09. FCC authority to require label requirement for analog television sets.
Sec. —10. Report on consumer education program requirements.
Sec. —11. FCC to issue decision in certain proceedings.
Sec. —12. Definitions.
Sec. —13. Effective date.

**SEC. —02. FINDINGS.**

The Congress finds the following:

(1) In its final report, the 9-11 Commission advocated that Congress pass legislation providing for the expedited and increased assignment of radio spectrum for public safety purposes. The 9-11 Commission stated that this spectrum was necessary to improve communications between local, State and Federal public safety organizations and public safety organizations operating in neighboring jurisdictions that may respond to an emergency in unison.

(2) Specifically, the 9-11 Commission report stated ''The inability to communicate was a critical element at the World Trade Center, Pentagon and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.''.

(3) In the Balanced Budget Act of 1997, the Congress directed the FCC to allocate spectrum currently being used by television broadcasters to public safety agencies to use for emergency communications. This spectrum has specific characteristics that make it an outstanding choice for emergency communications because signals sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

(4) This spectrum will not be fully available to public safety agencies until the completion of the digital television transition. The need for this spectrum is greater than ever. The nation cannot risk further loss of life due to public safety agencies' first responders' inability to communicate effectively in the event of another terrorist act or other crisis, such as a hurricane, tornado, flood, or earthquake.

(5) In the Balanced Budget Act of 1997, Congress set a date of December 31, 2006, for the termination of the digital television transition. Under current law, however, the deadline will be extended if fewer than 85 percent of the television households in a market are able to continue receiving local television broadcast signals.

(6) Federal Communications Commission Chairman Michael K. Powell testified at a hearing before the Senate Commerce, Science, and Transportation Committee on September 8, 2004, that, absent government action, this extension may allow the digital television transition to continue for ''decades'' or ''multiples of decades''.

(7) The Nation's public safety and welfare cannot be put off for ''decades'' or ''multiples of decades''. The Federal government should ensure that this spectrum is available for use by public safety organizations by January 1, 2009.

(8) Any plan to end the digital television transition would be incomplete if it did not ensure that consumers would be able to continue to enjoy over-the-air broadcast television with minimal disruption. If broadcasters air only a digital signal, some consumers may be unable to view digital transmissions using their analog-only television set. Local broadcasters are truly an important part of our homeland security and often an important communications vehicle in the event of a national emergency. Therefore, consumers who rely on over-the-air television, particularly those of limited economic means, should be assisted.

(9) The New America Foundation has testified before Congress that the cost to assist these 17.4 million exclusively over-the-air households to continue to view television is less than $1 billion dollars for equipment, which equates to roughly 3 percent of the Federal revenue likely from the auction of the analog television spectrum.

(10) Specifically, the New America Foundation has estimated that the Federal Government's auction of this spectrum could yield $30-to-$40 billion in revenue to the Treasury. Chairman Powell stated at the September 8, 2004, hearing that ''estimates of the value of that spectrum run anywhere from $30 billion to $70 billion''.

(11) Additionally, there will be societal benefits with the return of the analog broadcast spectrum. Former FCC Chairman Reed F. Hundt, at an April 28, 2004, hearing before the Senate Commerce, Science, and Transportation Committee, testified that this spectrum ''should be the fit and proper home of wireless broadband''. Mr. Hundt continued, ''Quite literally, [with this spectrum] the more millions of people in rural America will be able to afford Big Broadband Internet access, the more hundreds of millions of people in the world will be able to afford joining the Internet community.''.

(12) Due to the benefits that would flow to the Nation's citizens from the Federal Government reclaiming this analog television spectrum—including the safety of our Nation's first responders and those protected by first responders, additional revenues to the Federal treasury, millions of new jobs in the telecommunications sector of the economy, and increased wireless broadband availability to our Nation's rural citizens—Congress finds it necessary to set January 1, 2009, as a firm date for the return of this analog television spectrum.

**SEC. 3. SETTING A SPECIFIC DATE FOR THE AVAILABILITY OF SPECTRUM FOR PUBLIC SAFETY ORGANIZATIONS AND CREATING A DEADLINE FOR THE TRANSITION TO DIGITAL TELEVISION.**

(a) IN GENERAL.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(5) by adding at the end the following:

''(E) ACCELERATION OF DEADLINE FOR PUBLIC SAFETY USE.—

''(i) Notwithstanding subparagraph (A) and (B), the Commission shall take all action necessary to complete by December 31, 2007—

''(I) the return of television station licenses operating on channels between 764 and 776 megaHertz and between 794 and 806 megaHertz; and

''(II) assignment of the electromagnetic spectrum between 764 and 776 megahertz, and between 794 and 806 megahertz, for public safety services.

''(ii) Notwithstanding subparagraphs (A) and (B), the Commission shall have the authority to modify, reassign, or require the return of, the television station licenses assigned to frequencies between 758 and 764 megahertz, 776 and 782 megahertz, and 788 and 794 megahertz as necessary to permit operations by public safety services on frequencies between 764 and 776 megahertz and between 794 and 806 megahertz, after the date of enactment of the this section, but such modifications, reassignments, or returns may not take effect until after December 31, 2007.''.

(b) The FCC may waive the requirements of sections (i) and (ii) and such other rules as necessary:

(A) in the absence of a bona fide request from relevant first responders in the affected designated market area; and;

(B) to the extent necessary to avoid consumer disruption but only if all relevant public safety entities are able to use such frequencies free of interference by December 31, 2007, or are otherwise able to resolve interference issues with relevant broadcast licensee by mutual agreement.''

**SEC. —04. STUDIES OF COMMUNICATIONS CAPABILITIES AND NEEDS.**

(a) IN GENERAL.—The Commission, in consultation with the Secretary of Homeland Security, shall conduct a study to assess strategies that may be used to meet public safety communications needs, including—

(1) the short-term and long-term need for additional spectrum allocation for Federal, State, and local first responders, including an additional allocation of spectrum in the 700 megaHertz band;

(2) the need for a nationwide interoperable broadband mobile communications network;

(3) the ability of public safety entities to utilize wireless broadband applications; and

(4) the communications capabilities of first receivers such as hospitals and health care workers, and current efforts to promote communications coordination and training among the first responders and the first receivers.

(b) REALLOCATION STUDY.—The Commission shall conduct a study to assess the advisability of reallocating any amount of spectrum in the 700 megaHertz band for unlicensed broadband uses. In the study, the Commission shall consider all other possible users of this spectrum, including public safety.

(c) REPORT.—The Commission shall report the results of the studies, together with any recommendations it may have, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 1 year after the date of enactment of this Act.

**SEC. —05. STATUTORY AUTHORITY FOR THE DEPARTMENT OF HOMELAND SECURITY'S "SAFECOM" PROGRAM.**

Section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The''; and

(2) by adding at the end the following:

''(b) SAFECOM AUTHORIZED.—

''(1) IN GENERAL.—In carrying out subsection (a), the Under Secretary shall establish a program to address the interoperability of communications devices used by Federal, State, tribal, and local first responders, to be known as the Wireless Public Safety Interoperability Communications Program, or 'SAFECOM'. The Under Secretary shall coordinate the program with the Director of the Department of Justice's Office of Science and Technology and all other Federal programs engaging in communications interoperability research, development, and funding activities to ensure that the program takes into account, and does not duplicate, those programs or activities.

''(2) COMPONENTS.—The program established under paragraph (1) shall be designed—

''(A) to provide research on the development of a communications system architecture that would ensure the interoperability of communications devices among Federal, State, tribal, and local officials that would enhance the potential for a coordinated response to a national emergency;

''(B) to support the completion and promote the adoption of mutually compatible voluntary consensus standards developed by a standards development organization accredited by the American National Standards Institute to ensure such interoperability; and

''(C) to provide for the development of a model strategic plan that could be used by any State or region in developing its communications interoperability plan.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection—

''(A) $22,105,000 for fiscal year 2005;

''(B) $22,768,000 for fiscal year 2006;

''(C) $23,451,000 for fiscal year 2007;

''(D) $24,155,000 for fiscal year 2008; and

''(E) $24,879,000 for fiscal year 2009.

''(c) NATIONAL BASELINE STUDY OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY.—By December 31, 2005, the Under Secretary of Homeland Security for Science and Technology shall complete a study to develop a national baseline for communications interoperability and develop common grant guidance for all Federal grant programs that provide communications-related resources or assistance to State and local agencies, any Federal programs conducting demonstration projects, providing technical assistance, providing outreach services, providing standards development assistance, or conducting research and development with the public safety community with respect to wireless communications. The Under Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing the Under Secretary's findings, conclusions, and recommendations from the study.''.

**SEC. —06. GRANT PROGRAM TO PROVIDE ENHANCED INTEROPERABILITY OF COMMUNICATIONS FOR FIRST RESPONDERS.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program to help State, local, tribal, and regional first responders acquire and deploy interoperable communications equipment, purchase such equipment, and train personnel in the use of such equipment. The Secretary, in cooperation with the heads of other Federal departments and agencies who administer programs that provide communications-related assistance programs to State, local, and tribal public safety organizations, shall develop and implement common standards to the greatest extent practicable.

(b) APPLICATIONS.—To be eligible for assistance under the program, a State, local, tribal, or regional first responder agency shall submit an application, at such time, in such form, and containing such information as the Under Secretary of Homeland Security for Science and Technology may require, including—

(1) a detailed explanation of how assistance received under the program would be used to improve local communications interoperability and ensure interoperability with other appropriate Federal, State, local, tribal, and regional agencies in a regional or national emergency;

(2) assurance that the equipment and system would—

(A) not be incompatible with the communications architecture developed under section 302(b)(2)(A) of the Homeland Security Act of 2002;

(B) would meet any voluntary consensus standards developed under section 302(b)(2)(B) of that Act; and

(C) be consistent with the common grant guidance established under section 302(b)(3) of the Homeland Security Act of 2002.

(c) GRANTS.—The Under Secretary shall review applications submitted under subsection (b). The Secretary, pursuant to an application approved by the Under Secretary, may make the assistance provided under the program available in the form of a single grant for a period of not more than 3 years.

**SEC. —07. DIGITAL TRANSITION PUBLIC SAFETY COMMUNICATIONS GRANT AND CONSUMER ASSISTANCE FUND.**

(a) IN GENERAL.—There is established on the books of the Treasury a separate fund to be known as the ''Digital Transition Consumer Assistance Fund'', which shall be administered by the Secretary, in consultation with the Assistant Secretary of Commerce for Communications and Information.

(b) CREDITING OF RECEIPTS.—The Fund shall be credited with the amount specified

in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

(c) FUND AVAILABILITY.—

(1) APPROPRIATIONS.—

(A) CONSUMER ASSISTANCE PROGRAM.—There are appropriated to the Secretary from the Fund such sums, not to exceed $1,000,000,000, as are required to carry out the program established under section 8 of this Act.

(B) PSO GRANT PROGRAM.—To the extent that amounts available in the Fund exceed the amount required to carry out that program, there are authorized to be appropriated to the Secretary of Homeland Security, such sums as are required to carry out the program established under section 6 of this Act, not to exceed an amount, determined by the Director of the Office of Management and Budget, on the basis of the findings of the National Baseline Interoperability study conducted by the SAFECOM Office of the Department of Homeland Security.

(2) REVERSION OF UNUSED FUNDS.—Any auction proceeds in the Fund that are remaining after the date on which the programs under section 6 and 8 of this Act terminate, as determined by the Secretary of Homeland Security and the Secretary of Commerce respectively, shall revert to and be deposited in the general fund of the Treasury.

(d) DEPOSIT OF AUCTION PROCEEDS.—Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by inserting ''or subparagraph (D)'' in subparagraph (A) after ''subparagraph (B)''; and

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

''(D) DISPOSITION OF CASH PROCEEDS FROM AUCTION OF CHANNELS 52 THROUGH 69.—Cash proceeds attributable to the auction of any eligible frequencies between 698 and 806 megaHertz on the electromagnetic spectrum conducted after the date of enactment of the SAVE LIVES Act shall be deposited in the Digital Transition Consumer Assistance Fund established under section 7 of that Act.''.

**SEC. —08. DIGITAL TRANSITION PROGRAM.**

(a) IN GENERAL.—The Secretary, in consultation with the Commission and the Director of the Office of Management and Budget, shall establish a program to assist households—

(1) in the purchase or other acquisition of digital-to-analog converter devices that will enable television sets that operate only with analog signal processing to continue to operate when receiving a digital signal;

(2) in the payment of a one-time installation fee (not in excess of the industry average fee for the date, locale, and structure involved, as determined by the Secretary) for installing the equipment required for residential reception of services provided by a multichannel video programming distributor (as defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 602(13)); or

(3) in the purchase of any other device that will enable the household to receive over-the-air digital television broadcast signals, but in an amount not in excess of the average per-household assistance provided under paragraphs (1) and (2).

(b) PROGRAM CRITERIA.—The Secretary shall ensure that the program established under subsection (a)—

(1) becomes publicly available no later than January 1, 2008;

(2) gives first priority to assisting lower income households (as determined by the Director of the Bureau of the Census for statistical reporting purposes) who rely exclusively on over-the-air television broadcasts;

(3) gives second priority to assisting other households who rely exclusively on over-the-air television broadcasts;

(4) is technologically neutral; and

(5) is conducted at the lowest feasible administrative cost.

**SEC. —09. FCC AUTHORITY TO REQUIRE LABEL REQUIREMENT FOR ANALOG TELEVISION SETS.**

(a) IN GENERAL.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

''(z) If the Commission acts to set a hard deadline for the return of analog spectrum pursuant to Section 309(j)(14), it shall have the authority to require that any apparatus described in paragraph (s) sold or offered for sale in or affecting interstate commerce that is incapable of receiving and displaying a digital television broadcast signal without the use of an external device that translates digital television broadcast signals into analog television broadcast signals have affixed to it and, if it is sold or offered for sale in a container, affixed to that container, a label that states that the apparatus will be incapable of displaying over-the-air television broadcast signals received after a date determined by the FCC, without the purchase of additional equipment.''.

(c) POINT OF SALE WARNING.—If the Commission acts to set a hard deadline for the return of analog spectrum pursuant to Section 309 (j)(14), then the Commission, in consultation with the Federal Trade Commission, shall have the authority to require the display at, or in close proximity to, any commercial retail sales display of television sets described in section 303(z) of the Communications Act of 1934 (47 U.S.C. 303(z)) sold or offered for sale in or affecting interstate commerce after a date determined by the Commission, of a printed notice that clearly and conspicuously states that the sets will be incapable of displaying over-the-air television broadcast signals received after the hard deadline established by the Commission, without the purchase or lease of additional equipment.

**SEC. —10. REPORT ON CONSUMER EDUCATION PROGRAM REQUIREMENTS.**

Within 1 year after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information, after consultation with the Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing recommendations with respect to—

(1) an effective program to educate consumers about the transition to digital television broadcast signals and the impact of that transition on consumers' choices of equipment to receive such signals;

(2) the need, if any, for Federal funding for such a program;

(3) the date of commencement and duration of such a program; and

(4) what department or agency should have the lead responsibility for conducting such a program.

**SEC. —11. FCC TO ISSUE DECISION IN CERTAIN PROCEEDINGS.**

The Commission shall issue a final decision before—

(1) January 1, 2005, in the Matter of Carriage of Digital Television Broadcast Signals; Amendments to Part 76 of the Commission's Rules, CS Docket No. 98-120;

(2) January 1, 2005, in the Matter of Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360; and

(3) January 1, 2006, in the Implementation of the Satellite Home Viewer Improvement Act of 1999; Local Broadcast Signal Carriage Issues, CS Docket No. 00-96.

**SEC. —12. DEFINITIONS.**

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) FUND.—The term ''Fund'' means the Digital Transition Consumer Assistance Fund established by section 7.

(3) SECRETARY.—Except where otherwise expressly provided, the term ''Secretary'' means the Secretary of Commerce.

**SEC. —13. EFFECTIVE DATE.**

This title takes effect on the date of enactment of this Act.

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**SA 3774.** Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

**TITLE—NATIONAL PREPAREDNESS**

**SEC. —01. THE INCIDENT COMMAND SYSTEM.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The attacks on September 11, 2001, demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough.

(2) Teamwork, collaboration, and cooperation at an incident site are critical to a successful response to a terrorist attack.

(3) Key decision makers who are represented at the incident command level help to ensure an effective response, the efficient use of resources, and responder safety.

(4) Regular joint training at all levels is essential to ensuring close coordination during an actual incident.

(5) Beginning with fiscal year 2005, the Department of Homeland Security is requiring that entities adopt the Incident Command System and other concepts of the National Incident Management System in order to qualify for funds distributed by the Office of State and Local Government Coordination and Preparedness.

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

(1) emergency response agencies nationwide should adopt the Incident Command System;

(2) when multiple agencies or multiple jurisdictions are involved, they should follow a unified command system; and

(3) the Secretary of Homeland Security should require, as a further condition of receiving homeland security preparedness funds from the Office of State and Local Government Coordination and Preparedness, that grant applicants document measures taken to fully and aggressively implement the Incident Command System and unified command procedures.

**SEC. —02. NATIONAL CAPITAL REGION MUTUAL AID.**

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED REPRESENTATIVE OF THE FEDERAL GOVERNMENT.—The term ''authorized representative of the Federal Government'' means any individual or individuals designated by the President with respect to the executive branch, the Chief Justice with respect to the Federal judiciary, or the President of the Senate and Speaker of the House of Representatives with respect to Congress, or their designees, to request assistance under a Mutual Aid Agreement for an emergency or public service event.

(2) CHIEF OPERATING OFFICER.—The term ''chief operating officer'' means the official designated by law to declare an emergency in and for the locality of that chief operating officer.

(3) EMERGENCY.—The term ''emergency'' means a major disaster or emergency declared by the President, or a state of emergency declared by the Mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality, or their designees, that triggers mutual aid under the terms of a Mutual Aid Agreement.

(4) EMPLOYEE.—The term ''employee'' means the employees of the party, including its agents or authorized volunteers, who are committed in a Mutual Aid Agreement to prepare for or who respond to an emergency or public service event.

(5) LOCALITY.—The term ''locality'' means a county, city, or town within the State of Maryland or the Commonwealth of Virginia and within the National Capital Region.

(6) MUTUAL AID AGREEMENT.—The term ''Mutual Aid Agreement'' means an agreement, authorized under subsection (b) for the provision of police, fire, rescue and other public safety and health or medical services to any party to the agreement during a public service event, an emergency, or preplanned training event.

(7) NATIONAL CAPITAL REGION OR REGION.—The term ''National Capital Region'' or ''Region'' means the area defined under section 2674(f)(2) of title 10, United States Code, and those counties with a border abutting that area and any municipalities therein.

(8) PARTY.—The term ''party'' means the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and any of the localities duly executing a Mutual Aid Agreement under this section.

(9) PUBLIC SERVICE EVENT.—The term ''public service event''

(A) means any undeclared emergency, incident or situation in preparation for or response to which the Mayor of the District of Columbia, an authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality in the National Capital Region, or their designees, requests or provides assistance under a Mutual Aid Agreement within the National Capital Region; and

(B) includes Presidential inaugurations, public gatherings, demonstrations and protests, and law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and other support that require human resources, equipment, facilities or services supplemental to or greater than the requesting jurisdiction can provide.

(10) STATE.—The term ''State'' means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

(11) TRAINING.—The term ''training'' means emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service events, such actions occurring outside actual emergency or public service event periods.

(b) MUTUAL AID AUTHORIZED.—

(1) IN GENERAL.—The Mayor of the District of Columbia, any authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality, or their designees, acting within his or her jurisdictional purview, may, subject to State law, enter into, request or provide assistance under Mutual Aid Agreements with localities, the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority for—

(A) law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event;

(B) preparing for, mitigating, managing, responding to or recovering from any emergency or public service event; and

(C) training for any of the activities described under subparagraphs (A) and (B).

(2) FACILITATING LOCALITIES.—The State of Maryland and the Commonwealth of Virginia are encouraged to facilitate the ability of localities to enter into interstate Mutual Aid Agreements in the National Capital Region under this section.

(3) APPLICATION AND EFFECT.—This section—

(A) does not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or other law enforcement functions of the United States Secret Service;

(B) does not diminish any authorities, express or implied, of Federal agencies to enter into Mutual Aid Agreements in furtherance of their Federal missions; and

(C) does not—

(i) preclude any party from entering into supplementary Mutual Aid Agreements with fewer than all the parties, or with another party; or

(ii) affect any other agreement in effect before the date of enactment of this Act among the States and localities, including the Emergency Management Assistance Compact.

(4) RIGHTS DESCRIBED.—Other than as described in this section, the rights and responsibilities of the parties to a Mutual Aid Agreement entered into under this section shall be as described in the Mutual Aid Agreement.

(c) DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The District of Columbia may purchase liability and indemnification insurance or become self insured against claims arising under a Mutual Aid Agreement authorized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

(d) LIABILITY AND ACTIONS AT LAW.—

(1) IN GENERAL.—Any responding party or its officers or employees rendering aid or failing to render aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement authorized under this section, and any party or its officers or employees engaged in training activities with another party under such a Mutual Aid Agreement, shall be liable on account of any act or omission of its officers or employees while so engaged or on account of the maintenance or use of any related equipment, facilities, or supplies, but only to the extent permitted under the laws and procedures of the State of the party rendering aid.

(2) ACTIONS.—Any action brought against a party or its officers or employees on account of an act or omission in the rendering of aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, or failure to render such aid or on account of the maintenance or use of any related equipment, facilities, or supplies may be brought only under the laws and procedures of the State of the party rendering aid and only in the Federal or State courts located therein. Actions against the United States under this section may be brought only in Federal courts.

(3) GOOD FAITH EXCEPTION.—

(A) DEFINITION.—In this paragraph, the term ''good faith'' shall not include willful misconduct, gross negligence, or recklessness.

(B) EXCEPTION.—No State or locality, or its officers or employees, rendering aid to another party, or engaging in training, under a Mutual Aid Agreement shall be liable under Federal law on account of any act or omission performed in good faith while so engaged, or on account of the maintenance or use of any related equipment, facilities, or supplies performed in good faith.

(4) IMMUNITIES.—This section shall not abrogate any other immunities from liability that any party has under any other Federal or State law.

(d) WORKERS COMPENSATION.—

(1) COMPENSATION.—Each party shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement, or engaged in training activities under a Mutual Aid Agreement, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

(2) OTHER STATE LAW.—No party shall be liable under the law of any State other than its own for providing for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement or engaged in training activities under a Mutual Aid Agreement.

(e) LICENSES AND PERMITS.—If any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for pro fessional, mechanical, or other skills and assistance is requested by a receiving jurisdiction, such person will be deemed licensed, certified, or permitted by the receiving jurisdiction to render aid involving such skill to meet a public service event, emergency or training for any such events.

**SEC.—03. URBAN AREA COMMUNICATIONS CAPABILITIES.**

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

**''SEC. 510. HIGH RISK URBAN AREA COMMUNICATIONS CAPABILITIES.**

''The Secretary, in consultation with the Federal Communications Commission and the Secretary of Defense, and with appropriate governors, mayors, and other State and local government officials, shall encourage and support the establishment of consistent and effective communications capabilities in the event of an emergency in urban areas determined by the Secretary to be at consistently high levels of risk from terrorist attack. Such communications capabilities shall ensure the ability of all levels of government agencies, including military authorities, and of first responders, hospitals, and other organizations with emergency response capabilities to communicate

with each other in the event of an emergency. Additionally, the Secretary, in conjunction with the Secretary of Defense, shall develop plans to provide back-up and additional communications support in the event of an emergency.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by inserting after the item relating to section 509 the following:

''Sec. 510. High risk urban area communications capabilities.''

**SEC.—04. PRIVATE SECTOR PREPAREDNESS.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Private sector organizations own 85 percent of the Nation's critical infrastructure and employ the vast majority of the Nation's workers.

(2) Unless a terrorist attack targets a military or other secure government facility, the first people called upon to respond will likely be civilians.

(3) Despite the exemplary efforts of some private entities, the private sector remains largely unprepared for a terrorist attack, due in part to the lack of a widely accepted standard for private sector preparedness.

(4) Preparedness in the private sector and public sector for rescue, restart and recovery of operations should include—

(A) a plan for evacuation;

(B) adequate communications capabilities; and

(C) a plan for continuity of operations.

(5) The American National Standards Institute recommends a voluntary national preparedness standard for the private sector based on the existing American National Standard on Disaster/Emergency Management and Business Continuity Programs (NFPA 1600), with appropriate modifications. This standard would establish a common set of criteria and terminology for preparedness, disaster management, emergency management, and business continuity programs.

(6) The mandate of the Department of Homeland Security extends to working with the private sector, as well as government entities.

(b) PRIVATE SECTOR PREPAREDNESS PROGRAM.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 805, is amended by adding at the end the following:

**''SEC. 511. PRIVATE SECTOR PREPAREDNESS PROGRAM.**

''The Secretary shall establish a program to promote private sector preparedness for terrorism and other emergencies, including promoting the adoption of a voluntary national preparedness standard such as the private sector preparedness standard developed by the American National Standards Institute and based on the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of that Act, as amended by section 805, is amended by inserting after the item relating to section 510 the following:

''Sec. 511. Private sector preparedness program.''.

(c) SENSE OF CONGRESS.—It is the sense of Congress that insurance and credit-rating industries should consider compliance with the voluntary national preparedness standard, the adoption of which is promoted by the Secretary of Homeland Security under section 511 of the Homeland Security Act of 2002, as added by subsection (b), in assessing insurability and credit worthiness.

**SEC. —05. CRITICAL INFRASTRUCTURE AND READINESS AS SESSMENTS.**

(a) FINDINGS.—Congress finds the following:

(1) Under section 201 of the Homeland Security Act of 2002 (6 U.S.C 121), the Department of Homeland Security, through the Under Secretary for Information Analysis and Infrastructure Protection, has the responsibility—

(A) to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;

(B) to identify priorities for protective and supportive measures; and

(C) to develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(2) Under Homeland Security Presidential Directive 7, issued on December 17, 2003, the Secretary of Homeland Security was given 1 year to develop a comprehensive plan to identify, prioritize, and coordinate the protection of critical infrastructure and key resources.

(3) Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, the Secretary of Homeland Security should—

(A) identify those elements of the United States' transportation, energy, communications, financial, and other institutions that need to be protected;

(B) develop plans to protect that infrastructure; and

(C) exercise mechanisms to enhance preparedness.

(b) REPORTS ON RISK ASSESSMENT AND READINESS.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary of Homeland Security shall submit a report to Congress on—

(1) the Department of Homeland Security's progress in completing vulnerability and risk assessments of the Nation's critical infrastructure;

(2) the adequacy of the Government's plans to protect such infrastructure; and

(3) the readiness of the Government to respond to threats against the United States.

**SEC. —06. REPORT ON NORTHERN COMMAND AND DEFENSE OF THE UNITED STATES HOMELAND.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Department of Defense has primary responsibility for the military defense of the United States.

(2) Prior to September 11, 2001, the North American Aerospace Defense Command (NORAD), which had responsibility for defending United States airspace, focused on threats coming from outside the borders of the United States.

(3) The United States Northern Command has been established to assume responsibility for the military defense of the United States, as well as to provide military support to civil authorities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of the plans and strategies of the United States Northern Command with a view to ensuring that the United States Northern Command is prepared to respond effectively to all threats within the United States, should it be called upon to do so by the President.

(c) ANNUAL REPORT.—

(1) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to the Committee on Armed Servces of the Senate and the Committee on Armed Services of the House of Representatives an annual report describing the plans and strategies of the United States Northern Command to defend the United States against all threats within the United States, in the case that it is called upon to do so by the President.

(2) SUBMISSION OF REPORT.—The annual report required by paragraph (1) shall be submitted in conjunction with the submission of the President's budget request to Congress.

**SEC. —07. EFFECTIVE DATE.**

Notwithstanding section 341 or any other provision of this Act, this title takes effect on the date of the enactment of this Act.

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**SA 3775.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16 and insert the following:

(2) The term ''foreign intelligence'' means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike ''counterintelligence or''.

On page 7, beginning on line 5, strike ''the Office of Intelligence of the Federal Bureau of Investigation'' and insert ''the Directorate of Intelligence of the Federal Bureau of Investigation''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''counterespionage'' means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term ''intelligence operation'' means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term ''collection and analysis requirements'' means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term ''collection and analysis tasking'' means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term ''certified intelligence officer'' means a professional employee of an

element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike ''(e)'' and insert ''(f)''.

On page 123, line 17, strike ''(f)'' and insert ''(g)''.

On page 126, between lines 20 and 21, insert the following:

**SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.**

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as the Office of Intelligence as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

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**SA 3776.** Mr. BURNS (for himself and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, insert the following:

**TITLE IV—AVIATION SECURITY**

**SEC. 401. SHORT TITLE.**

This title may be cited as the ''Aviation Homeland Security Act of 2004''.

**SEC. 402. FEDERAL FLIGHT DECK OFFICERS.**

(a) WEAPONS CARRIAGE.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a program to allow pilots participating in the Federal flight deck officer program, established under section 44921 of title 49, United States Code, to transport their firearms on their persons.

(b) INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL FLIGHT DECK OFFICERS.—The Secretary of State shall negotiate agreements with foreign governments to allow Federal flight deck officers to carry and possess firearms within the jurisdictions of such foreign governments for protection of international flights against hijackings or other terrorist acts. Any such agreement shall provide Federal flight deck officers the same rights and privileges accorded Federal air marshals by such foreign governments. The Secretary of Homeland Security may not refuse to train any eligible pilot operating in foreign air transportation as a Federal flight deck officer. The Secretary shall provide means for pilots previously refused training as a Federal flight deck officer to reapply for the program.

(c) CREDENTIALS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall issue to each Federal flight deck officer standard Federal law enforcement credentials that are similar to the credentials issued to other Federal law enforcement officers, including a distinctive metal badge.

(d) DETERMINATION OF INELIGIBILITY AND APPEAL.—If the Secretary of Homeland Security determines that a pilot is ineligible to be a Federal flight deck officer, the Secretary shall provide the pilot with the reason for the determination of ineligibility and an opportunity to appeal the determination.

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**SA 3777.** Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, line 20, strike ''the relationships among''.

On page 63, line 8, strike ''the relationships among''.

On page 64, line 5, strike ''and'' at the end.

On page 64, between lines 5 and 6, insert the following:

(4) to evaluate the compliance of the National Intelligence Authority and the National Intelligence Program with any applicable United States law or regulation, including any applicable regulation, policy, or procedure issued under section 206, or with any regulation, policy, or procedure of the Director governing the sharing or dissemination of, or access to, intelligence information or products; and

On page 64, line 6, strike ''(4)'' and insert ''(5)''.

On page 65, strike lines 11 through 16 and insert the following:

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

On page 66, beginning on line 1, strike ''or contractor of the National Intelligence Authority'' and insert '', or any employee of a contractor, of any element of the intelligence community''.

On page 66, line 4, strike ''Director'' and insert ''National Intelligence Director or other appropriate official of the intelligence community''.

On page 69, between lines 20 and 21, insert the following:

(C) Each Inspector General of an element of the intelligence community shall comply fully with a request for information or assistance from the Inspector General of the National Intelligence Authority.

(D) The Inspector General of the National Intelligence Authority may, upon reasonable notice to the head of any element of the intelligence community, conduct, as authorized by this section, an investigation, inspection, or audit of such element and may enter into any place occupied by such element for purposes the performance of the duties of the Inspector General.

On page 70, line 13, strike ''Authority'' and insert ''Program''.

On page 71, line 1, strike ''An assessment'' and insert ''In consultation with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority and the Privacy Officer of the National Intelligence Authority, an assessment''.

On page 71, beginning on line 16, strike ''Authority'' and insert ''Authority or the National Intelligence Program, or in the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community,''.

On page 72, beginning on line 3, strike ''a relationship between''.

On page 72, strike lines 19 through 25 and insert the following:

(B) an investigation, inspection, review, or audit carried out by the Inspector General focuses on any current or former official of the intelligence community who—

(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, by and with the advice and consent of the Senate, including an appointment held on an acting basis; or

(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the National Intelligence Director;

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such a complaint or information to the Inspector General.

On page 77, line 8, strike ''the Authority'' and insert ''an element of the intelligence community''.

On page 77, between lines 11 and 12, insert the following:

(i) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—The performance by the Inspector General of the National Intelligence Authority of any duty,

responsibility, or function regarding an element of the intelligence community shall not be construed to modify or effect the duties and responsibilities of any other Inspector General having duties or responsibilities relating to such element.

On page 77, line 12, strike ''(i)'' and insert ''(j)''.

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**SA 3778.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 113, between lines 17 and 18, insert the following:

(b) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the National Intelligence Director may, in the discretion of the Director, terminate the employment of any officer or employee of the National Intelligence Authority whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

On page 113, line 18, strike ''(b) RIGHTS AND PROTECTIONS'' and insert ''(c) OTHER RIGHTS AND PROTECTIONS''.

On page 113, after line 24, add the following:

(d) EXCLUSION FROM CERTAIN PERSONNEL MANAGEMENT REQUIREMENTS.—

(1) PERFORMANCE APPRAISALS.—Section 4301(1)(ii) of title 5, United States Code, is amended by inserting ''the National Intelligence Authority,'' before ''the Central Intelligence Agency,''.

(2) LABOR-MANAGEMENT RELATIONS.—Section 7103(a)(3) of that title is amended—

(A) in subparagraph (G), by striking ''or'' at the end;

(B) in subparagraph (H), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(I) the National Intelligence Authority;

''(J) the Defense Intelligence Agency;

''(K) the National Geospatial-Intelligence Agency; or

''(L) any other Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities.''.

(e) REGULATIONS.—(1) In carrying out the responsibilities and authorities specified in sections 112 and 113 and this section (including the amendments made by this section), the National Intelligence Director shall prescribe regulations regarding the management of personnel of the National Intelligence Authority.

(2) The regulations shall include provisions relating to the following:

(A) The applicability to the personnel of the Authority of the authorities referred to in subsection (a).

(B) The exercise of the authority under subsection (b) to terminate officers and employees of the Authority.

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**SA 3779.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. CONTAINER SECURITY TRIALS.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Homeland Security in partnership with private industry and a land grant college with radio frequency identification (referred to in this section as ''RFID'') expertise shall conduct at least 2 large-scale cargo security trials, involving no fewer than 10,000 intermodal containers each, utilizing technologies such as radio frequency tracking or sensing technologies that provide seamless visibility throughout the entirety of the distribution chain from factory to retail.

(b) PROJECT FOCUS.—At least 1 project conducted under this section shall focus on United States-Sino trans-Pacific commerce with active RFID tag technology and 1 shall focus on the rural United States-Canadian border with battery assisted semi-passive sensor RFID tag technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

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**SA 3780.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 1 and 2, insert the following:

**SEC. 207. MANAGEMENT OF CIVILIAN PERSONNEL CONDUCTING FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE ACTIVITIES.**

(a) IN GENERAL.—In carrying out the responsibilities and authorities specified in sections 112 and 113, the National Intelligence Director may terminate the employment of civilian personnel of the elements of the intelligence community whose principle function is the conduct of foreign intelligence or counterintelligence activities if the Director considers such action to be in the interests of the United States.

(b) FINALITY.—A decision of the National Intelligence Director to terminate the employment of an employee under this section is final and may not be appealed or reviewed outside such elements of the intelligence community as the President shall designate.

(c) PRESERVATION OF RIGHT TO SEEK OTHER EMPLOYMENT.—Any termination of employment of an employee under this section shall not affect the right of the employee to seek or accept employment with any other department, agency, or element of the United States Government if the employee is declared eligible for such employment by the Director of the Office of Personnel Management.

(d) DELEGATION OF AUTHORITY.—The National Intelligence Director may delegate the authority under subsection (a).

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**SA 3781.** Mr. WARNER (for himself and Mr. STEVENS) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 119, beginning on line 17, strike ''upon the request of the National Intelligence Director.'.'' and insert ''at least monthly and otherwise upon the request of the National Intelligence Director or another principal member of the Council.

''(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

''(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

''(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.''.

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**SA 3782.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. ALLOCATION OF FEDERAL HOMELAND SECURITY ASSISTANCE.**

Any Federal funds appropriated to the Department of Homeland Security for grants or other assistance shall be allocated based strictly on an assessment of risks and vulnerabilities.

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**SA 3783.** Mr. SESSIONS (for Mr. INOUYE) proposed an amendment to the bill S. 2436, to reauthorize the Native American Programs Act of 1974; as follows:

At the end, add the following:

**SEC. 2. RESEARCH AND EDUCATIONAL ACTIVITIES.**

Section 7205(a)(3) of the Native Hawaiian Education Act (20 U.S.C. 7515(a)(3)) is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

''(K) research and educational activities relating to Native Hawaiian law;''.

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**SA 3784.** Mr. SESSIONS (for Mr. CRAIG) proposed an amendment to the bill S. 2639, to reauthorize the Congressional Award Act; as follows:

After section 1, insert the following:

**SEC. 2. FEDERAL FUNDS AND RESOURCES.**

(a) TECHNICAL AMENDMENTS; CLARIFICATION OF ACCEPTANCE OF FEDERAL FUNDS AND RESOURCES.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (a)(1), by striking ''from sources other than the Federal Government'';

(2) in the heading of subsection (e), by striking ''NON-FEDERAL FUNDS AND RESOURCES; INDIRECT RESOURCES'' and inserting ''FUNDS AND RESOURCES'';

(3) in subsection (e)—

(A) in paragraph (1), by striking ''Subject to the provisions of paragraph (2), the'' and inserting ''The''; and

(B) by striking paragraph (2) and inserting the following:

''(2) The Board—

''(A) may benefit from in-kind and indirect resources provided by Offices of Members of Congress;

''(B) is not prohibited from receiving benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources; and

''(C) may not accept more than one-half of all funds accepted from Federal sources.''; and

(4) adding at the end the following:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board to carry out this Act $750,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009.''.

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**SA 3785.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. HOAXES RELATING TO TERRORIST OFFENSES.**

(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

**''§ 1038. False information and hoaxes**

''(a) CRIMINAL VIOLATION.—

''(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed, and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under section 2332b(g)(5)(B) of this title—

''(A) be fined under this title or imprisoned not more than 5 years, or both;

''(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

''(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

''(2) ARMED FORCES.—Whoever, without lawful authority, makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged, shall—

''(A) be fined under this title or imprisoned not more than 5 years, or both;

''(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

''(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

''(b) CIVIL ACTION.—Whoever knowingly engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

''(c) REIMBURSEMENT.—

''(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

''(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

''(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

''(d) ACTIVITIES OF LAW ENFORCEMENT.—This section shall not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections of chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1037 the following:

''1038. False information and hoaxes.''.

**SEC. ___. INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.**

(a) ENHANCED PENALTY.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking ''be fined under this title or imprisoned not more than 5 years, or both'' and inserting ''be fined under this title, imprisoned not more than 5 years or, if the matter relates to international or domestic terrorism (as defined in section 2331), imprisoned not more than 10 years, or both''.

(b) SENTENCING GUIDELINES.—Not later than 30 days after the date of enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves a matter relating to international or domestic terrorism, as defined in section 2331 of such title.

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**SA 3786.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. ADDING TERRORIST OFFENSES TO STATUTORY PRESUMPTION OF NO BAIL.**

Section 3142 of title 18, United States Code, is amended—

(1) in the flush language at the end of subsection (e) by inserting before the period at the end the following: '', or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code''; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after ''violence'' the following: ''or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code,''.

**SEC. ___. MAKING TERRORISTS ELIGIBLE FOR LIFETIME POST-RELEASE SUPERVISION.**

Section 3583(j) of title 18, United States Code, is amended by striking '', the commission'' and all that follows through ''person,''.

**SEC. ___. AUTOMATIC PERMISSION FOR EX PARTE REQUESTS FOR PROTECTION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.**

The second sentence of section 4 of the Classified Information Procedures Act (18 U.S.C. App. 3) is amended—

(1) by striking ''may'' and inserting ''shall''; and

(2) by striking ''a written statement to be inspected'' and inserting ''a statement to be considered''.

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**SA 3787.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. UNIFORM STANDARDS FOR INFORMATION SHARING ACROSS FEDERAL AGENCIES.**

(a) TELEPHONE RECORDS.—Section 2709(d) of title 18, United States Code, is amended by striking ''for foreign'' and all that follows through ''such agency''.

(b) CONSUMER INFORMATION UNDER 15 U.S.C. 1681u.—Section 625(f) of the Fair Credit Reporting Act (15 U.S.C. 1681u(f)) is amended to read as follows:

''(f) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.''.

(c) CONSUMER INFORMATION UNDER 15 U.S.C. 1681v.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

''(d) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to

this section only as provided in guidelines approved by the Attorney General.''.

(d) FINANCIAL RECORDS.—Section 1114(a)(5)(B) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(B)) is amended by striking ''for foreign'' and all that follows through ''such agency''.

(e) RECORDS CONCERNING CERTAIN GOVERNMENT EMPLOYEES.—Section 802(e) of the National Security Act of 1947 (50 U.S.C. 436(e)) is amended—

(1) by striking ''An agency'' and inserting the following: ''The Federal Bureau of Investigation may disseminate records or information received pursuant to a request under this section only as provided in guidelines approved by the Attorney General. Any other agency''; and

(2) in paragraph (3), by striking ''clearly''.

**SEC. ___. AUTHORIZATION TO SHARE NATIONAL-SECURITY AND GRAND-JURY INFORMATION WITH STATE AND LOCAL GOVERNMENTS.**

(a) INFORMATION OBTAINED IN NATIONAL SECURITY INVESTIGATIONS.—Section 203(d) of the USA PATRIOT ACT (50 U.S.C. 403–5d) is amended—

(1) in paragraph (1), by striking ''criminal investigation'' each place it appears and inserting ''criminal or national security investigation''; and

(2) by amending paragraph (2) to read as follows:

''(2) DEFINITIONS.—As used in this subsection—

''(A) the term 'foreign intelligence information' means—

''(i) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

''(I) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(II) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(III) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

''(ii) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

''(I) the national defense or the security of the United States; or

''(II) the conduct of the foreign affairs of the United States; and

''(B) the term 'national security investigation'—

''(i) means any investigative activity to protect the national security; and

''(ii) includes—

''(I) counterintelligence and the collection of intelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)); and

''(II) the collection of foreign intelligence information.''.

(b) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking ''or state subdivision or of an Indian tribe'' and inserting '', state subdivision, Indian tribe, or foreign government'';

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: ''An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(ii) in clause (i)—

(I) by striking ''federal''; and

(II) by adding at the end the following: ''Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

''(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;''; and

(iii) in clause (iv), as redesignated—

(I) by striking ''state or Indian tribal'' and inserting ''State, Indian tribal, or foreign''; and

(II) by striking ''or Indian tribal official'' and inserting ''Indian tribal, or foreign government official''; and

(2) in paragraph (7), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''.

(c) CONFORMING AMENDMENT.—Section 203(c) of the USA PATRIOT ACT (18 U.S.C. 2517 note) is amended by striking ''Rule 6(e)(3)(C)(i)(V) and (VI)'' and inserting ''Rule 6(e)(3)(D)''.

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**SA 3788.** Mr. KYL submitted and amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. FISA WARRANTS FOR LONE-WOLF TERRORISTS.**

Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following:

''(C) engages in international terrorism or activities in preparation therefore; or''.

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**SA 3789.** Mr. KYL submitted and amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. USE OF FISA INFORMATION IN IMMIGRATION PROCEEDINGS.**

The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting ''(other than in proceedings or other civil matters under the immigration laws (as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))'' after ''authority of the United States'':

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

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**SA 3790.** Mr. KYL submitted and amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. EXPANDED DEATH PENALTY FOR TERRORIST MURDERS.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

**''§ 2339D. Terrorist offenses resulting in death**

''(a) PENALTY.—A person who, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death, or imprisoned for any term of years or for life.

''(b) TERRORIST OFFENSE DEFINED.—In this section, the term 'terrorist offense' means—

''(1) international or domestic terrorism as defined in section 2331;

''(2) a Federal crime of terrorism as defined in section 2332b(g);

''(3) an offense under—

''(A) this chapter;

''(B) section 175, 175b, 229, or 831; or

''(C) section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

''(4) an attempt or conspiracy to commit an offense described in paragraph (1), (2), or (3).''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2339D. Terrorist offenses resulting in death.''.

(c) AGGRAVATING FACTORS.—

(1) IN GENERAL.—Section 3591(a)(1) of title 18, United States Code, is amended by striking ''or section 2381'' and inserting '', 2339D, or 2381''.

(2) CONFORMING AMENDMENT.—Section 3592(b) of title 18, United States Code, is amended—

(A) in the section heading, by striking ''AND TREASON'' and inserting '', TREASON, AND TERRORISM''; and

(B) in paragraph (1)—

(i) in the section heading, by striking ''OR TREASON'' and inserting '', TREASON, OR TERRORISM''; and

(ii) by striking ''or treason'' and inserting '', treason, or terrorism''.

(d) DEATH PENALTY IN CERTAIN AIR PIRACY CASES.—Section 60003(b) of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

''(2) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States

Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.''.

**SEC. ___. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

**''§ 2339E. Denial of Federal benefits to terrorists**

''(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) FEDERAL BENEFIT DEFINED.—As used in this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2339E. Denial of Federal benefits to terrorists.''.

**SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISM.**

(a) IN GENERAL.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking ''Whoever'' and inserting the following:

''(1) IN GENERAL.—Any person who'';

(2) by striking ''A violation'' and inserting the following:

''(3) PROSECUTION.—A violation'';

(3) by inserting after paragraph (1) the following:

''(2) ADDITIONAL OFFENSE.—

''(A) IN GENERAL.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

''(B) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if—

''(i) the offense occurs in or affects interstate or foreign commerce;

''(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

''(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

''(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

''(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(III) a stateless person whose habitual residence is in the United States;

''(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

''(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

''(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph.''; and

(4) by inserting ''act or'' after ''underlying''.

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

''(b) DEFINITIONS.—As used in this section—

''(1) the term 'material support or resources' means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

''(2) the term 'training' means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

''(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical, or other specialized knowledge.''.

(c) MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ''Whoever, within the United States or subject to the jurisdiction of the United States,'' and inserting the following:

''(A) IN GENERAL.—Any person who''; and

(2) by adding at the end the following:

''(B) KNOWLEDGE REQUIREMENT.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

''(i) is a terrorist organization;

''(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

''(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).''.

(d) JURISDICTION.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

''(d) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; or

''(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.''.

(e) PROVISION OF PERSONNEL.—Section 2339B of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following:

''(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control.''.

**SEC. ___. RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.**

(a) PROHIBITION AS TO CITIZENS AND RESIDENTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

**''§ 2339F. Receiving military-type training from a foreign terrorist organization**

''(a) OFFENSE.—

''(1) IN GENERAL.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

''(2) KNOWLEDGE REQUIREMENT.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

''(b) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; and

''(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) DEFINITIONS.—In this section:

''(1) MILITARY-TYPE TRAINING.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

''(2) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

''(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

''(4) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339F. Receiving military-type training from a foreign terrorist organization.''.

(b) INADMISSIBILITY OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking ''is inadmissable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''; and

(2) by inserting after subclause (VII) the following:

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi),

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''.

(c) INADMISSIBILITY OF REPRESENTATIVES AND MEMBERS OF TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or''; and

(2) by striking subclause (V) and inserting the following:

''(V) is a member of—

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

''(bb) an organization which the alien knows or should have known is a terrorist organization,''.

(d) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

''(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is deportable.''.

(e) RETROACTIVE APPLICATION.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occuring before, on, or after the date of enactment of this Act.

**Subtitle ____—Combating Money Laundering and Terrorist Financing Act**

**SEC. ____01. SHORT TITLE.**

This subtitle may be cited as the ''Combating Money Laundering and Terrorist Financing Act of 2004''.

**SEC. ____02. SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.**

(a) RICO DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ''burglary, embezzlement,'' after ''robbery,'';

(2) in subparagraph (B), by—

(A) inserting ''section 1960 (relating to illegal money transmitters),'' before ''sections 2251'';

(B) striking ''1591'' and inserting ''1592'';

(C) inserting ''and 1470'' after ''1461–1465''; and

(D) inserting ''2252A,'' after ''2252,'';

(3) in subparagraph (D), by striking ''fraud in the sale of securities'' and inserting ''fraud in the purchase or sale of securities''; and

(4) in subparagraph (F), by inserting ''and 274A'' after ''274''.

(b) MONETARY INVESTMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting '', or section 2339C (relating to financing of terrorism)'' before ''of this title''; and

(2) striking ''or any felony violation of the Foreign Corrupt Practices Act'' and inserting ''any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)''.

(c) CONFORMING AMENDMENTS.—

(1) MONETARY INSTRUMENTS.—Section 1956(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.''.

(2) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.''.

**SEC. ____03. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

(a) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(1) in the caption by striking ''unlicensed'' and inserting ''illegal'';

(2) in subsection (a), by striking ''unlicensed'' and inserting ''illegal'';

(3) in subsection (b)(1), by striking ''unlicensed'' and inserting ''illegal''; and

(4) in subsection (b)(1)(C), by striking ''to be used to be used'' and inserting ''to be used''.

(b) PROHIBITION OF UNLICENSED MONEY TRANSMITTING BUSINESSES.—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: '', whether or not the defendant knew that the operation was required to comply with such registration requirements''.

(c) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

''(c) Violations of this section may be investigated by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.''.

**SEC. ____04. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.**

Section 981(a)(1)(G) of title 18, United States Code, is amended by—

(1) striking ''or'' at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting ''; or''; and

(3) inserting after clause (iii) the following:

''(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.''.

**SEC. ___05. MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.**

Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

''(4) A transaction described in paragraph (1), or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.''.

**SEC. ___06. FINANCING OF TERRORISM.**

(a) CONCEALMENT.—Section 2339C(c)(2) of title 18, United States Code, is amended to read as follows:

''(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, or resources, or any funds or proceeds of such funds—

''(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B; or

''(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).''.

(b) DEFINITION.—Section 2339C(e) of title 18, United States Code, is amended—

(1) in paragraph (12), by striking ''and'' at the end;

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

''(13) the term 'material support or resources' has the same meaning as in section 2339B(g)(4); and''.

**SEC. ___07. MISCELLANEOUS AND TECHNICAL AMENDMENTS.**

(a) CRIMINAL FORFEITURE.—Section 982(b)(2) of title 18, United States Code, is amended, by striking ''The substitution'' and inserting ''With respect to a forfeiture under subsection (a)(1), the substitution''.

(b) TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.—

(1) UNLAWFUL ACTIVITY.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting '', as defined in section 24'' before the period.

(2) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''engages or attempts to engage in'' and inserting ''conducts or attempts to conduct''; and

(B) in subsection (f), by inserting the following after paragraph (3):

''(4) the term 'conducts' has the same meaning as it does for purposes of section 1956 of this title.''.

(c) OBSTRUCTION OF JUSTICE.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking ''or'' the first time it appears and inserting '', a subpoena issued pursuant to section 1782 of title 28, or''.

(d) INTERNATIONAL TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ''\)'' after ''2339C (relating to financing of terrorism''.

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**SA 3791.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. WEAPONS OF MASS DESTRUCTION.**

(a) EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

''(2)(A) against any person or property within the United States; and

''(B)(i) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

''(ii) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

''(iii) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

''(iv) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;'';

(B) in paragraph (3), by striking the comma at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(4) against any property within the United States that is owned, leased, or used by a foreign government,''; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) the term 'property' includes all real and personal property.''.

(b) RESTORATION OF THE COVERAGE OF CHEMICAL WEAPONS.—

(1) IN GENERAL.—Section 2332a of title 18, United States Code, as amended by this Act, is further amended by—

(A) in the section heading, by striking ''CERTAIN'';

(B) in subsection (a), by striking ''(other than a chemical weapon as that term is defined in section 229F)''; and

(C) in subsection (b), by striking ''(other than a chemical weapon (as that term is defined in section 229F))''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended in the matter relating to section 2332a by striking ''certain''.

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G)—

(A) by inserting ''(i)'' after ''(G)'';

(B) by striking ''or'' after the semicolon; and

(C) by adding at the end the following:

''(ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;''; and

(2) in subparagraph (H), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization (as that term is defined under section 212(a)(3)B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))).''.

(d) CONFORMING AMENDMENT TO REGULATIONS.—

(1) IN GENERAL.—Section 175b(a)(1) of title 18, United States Code, is amended by striking ''as a select agent in Appendix A'' and all that follows through the period and inserting ''as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

**SEC. ___. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.**

(a) ATOMIC ENERGY ACT.—Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking ''in the production of any special nuclear material'' and inserting ''or participate in the development or production of any special nuclear material or atomic weapon''.

(b) NUCLEAR WEAPON AND WMD THREATS.—

(1) IN GENERAL.—Chapter 39 of title 18, United States Code, is amended by adding at the end the following:

**''§ 838. Participation in nuclear and weapons of mass destruction threats to the United States**

''(a) IN GENERAL.—Whoever, within the United States, or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as that term is defined under section 2339A) to a nuclear weapons program, or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

''(b) JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) DEFINITIONS.—As used in this section—

''(1) FOREIGN TERRORIST POWER.—The term 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

''(2) NUCLEAR WEAPON.—The term 'nuclear weapon' means any weapon that contains or uses nuclear material (as that term is defined under section 831(f)(1)).

''(3) NUCLEAR WEAPONS PROGRAM.—The term 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons.

''(4) WEAPONS OF MASS DESTRUCTION PROGRAM.—The term 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as that term is defined in section 2332a(c)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 39 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 838. Participation in nuclear and weapons of mass destruction threats to the United States.''.

(c) ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting ''832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)'' after ''nuclear materials),''.

**Subtitle ____—Prevention of Terrorist Access to Special Weapons Act**

**SEC. ___01. SHORT TITLE.**

This subtitle may be cited as the ''Prevention of Terrorist Access to Special Weapons Act of 2004''.

**SEC. ___02. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332g, as added by this Act, the following:

**''§ 2332h. Missile systems designed to destroy aircraft**

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

''(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

''(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

''(ii) otherwise direct or guide the rocket or missile to an aircraft;

''(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

''(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

''(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

''(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

''(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

''(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

''(d) DEFINITION.—As used in this section, the term 'aircraft' has the definition set forth in section 40102(a)(6) of title 49, United States Code.''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2332h. Missile systems designed to destroy aircraft.''.

**SEC. ___03. ATOMIC WEAPONS.**

(a) PROHIBITIONS.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended by—

(1) inserting at the beginning ''a.'' before ''It'';

(2) inserting ''knowingly'' after ''for any person to'';

(3) striking ''or'' before ''export'';

(4) striking ''transfer or receive in interstate or foreign commerce,'' before ''manufacture'';

(5) inserting ''receive,'' after ''acquire,'';

(6) inserting '', or use, or possess and threaten to use,'' before ''any atomic weapon'';

(7) inserting at the end the following:

''b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

''(2) the offense is committed against a national of the United States while the national is outside the United States;

''(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.''.

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning ''a.'' before ''Whoever'';

(2) striking '', 92,''; and

(3) inserting at the end the following:

''b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 30 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000 and imprisoned for life. If the death of another results from a person's violation of section 92, the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.''.

**SEC. ___04. RADIOLOGICAL DISPERSAL DEVICES.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332h, as added by this Act, the following:

**''§ 2332i. Radiological dispersal devices**

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

''(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

''(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

''(2) EXCEPTION.—This subsection does not apply with respect to—

''(A) conduct by or under the authority of the United States or any department or agency thereof; or

''(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2332i. Radiological dispersal devices.''.

**SEC. ___05. VARIOLA VIRUS.**

(a) IN GENERAL.—Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

**''§ 175c. Variola virus**

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or

use, or possess and threaten to use, variola virus.

''(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

''(d) DEFINITION.—As used in this section, the term 'variola virus' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 10 of title 18, United States Code, is amended by inserting at the end the following:

''175c. Variola virus.''.

**SEC. ___06. INTERCEPTION OF COMMUNICATIONS.**

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting ''2122 and'' after ''sections'';

(2) in paragraph (c), by inserting ''section 175c (relating to variola virus),'' after ''section 175 (relating to biological weapons),'';

(3) in paragraph (q), by inserting ''2332h, 2332i,'' after ''2332f,''; and

(4) in paragraph (q), by striking ''or 2339C'' and inserting ''2339C, or 2339E''.

**SEC. ___07. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.**

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before ''2339 (relating to harboring terrorists)'' the following: ''2332h (relating to missile systems designed to destroy aircraft), 2332i (relating to radiological dispersal devices),'';

(B) by inserting ''175c (relating to variola virus),'' after ''175 or 175b (relating to biological weapons),''; and

(C) by inserting ''2339E (receiving military-type training from a foreign terrorist organization),'' after ''2339C (relating to financing of terrorism),''; and

(2) in clause (ii)—

(A) by striking ''section'' and inserting ''sections 92 (relating to prohibitions governing atomic weapons) or''; and

(B) by inserting ''2122 or'' before ''2284''.

**SEC. ___08. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.**

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after ''section 152 (relating to concealment of assets; false oaths and claims; bribery),'' the following: ''section 175c (relating to the variola virus),'';

(2) by inserting after ''section 2332(b) (relating to international terrorist acts transcending national boundaries),'' the following: ''section 2332h (relating to missile systems designed to destroy aircraft), section 2332i (relating to radiological dispersal devices),''; and

(3) striking ''or'' after ''any felony violation of the Foreign Agents Registration Act of 1938,'' and after ''any felony violation of the Foreign Corrupt Practices Act'', striking ''.'' and inserting '', or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)''.

**SEC. ___09. EXPORT LICENSING PROCESS.**

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking ''or'' before ''(xi)''; and

(2) by inserting after clause (xi) the following: ''or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);''.

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**SA 3792.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. JUDICIALLY ENFORCEABLE SUBPOENAS IN TERRORISM INVESTIGATIONS.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

**''§ 2332g. Judicially enforceable terrorism subpoenas**

''(a) AUTHORIZATION OF USE.—

''(1) IN GENERAL.—In any investigation concerning a Federal crime of terrorism (as defined under section 2332b(g)(5)), the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials.

''(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

''(3) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

''(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

''(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena.

''(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

''(b) SERVICE.—

''(1) IN GENERAL.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

''(2) SERVICE OF SUBPOENA.—

''(A) NATURAL PERSON.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

''(B) BUSINESS ENTITIES AND ASSOCIATIONS.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

''(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

''(2) ORDER.—A court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to produce records or other materials, or to give testimony concerning the production and authenticity of those materials. Any failure to obey the order of the court may be punished by the court as contempt thereof.

''(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

''(d) NONDISCLOSURE REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if the Attorney General certifies that otherwise there may result a danger to the national security of the United States, no person shall disclose to any other person that a subpoena was received or records were provided pursuant to this section, other than to—

''(A) those persons to whom such disclosure is necessary in order to comply with the subpoena;

''(B) an attorney to obtain legal advice with respect to testimony or the production of records in response to the subpoena; or

''(C) other persons as permitted by the Attorney General.

''(2) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

''(3) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

''(4) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Whoever knowingly violates paragraph (1) or (3) shall be imprisoned for not more than 1 year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than 5 years.

''(5) TERMINATION OF NONDISCLOSURE REQUIREMENT.—If the Attorney General concludes that a nondisclosure requirement no longer is justified by a danger to the national security of the United States, an officer, employee, or agency of the United States shall notify the relevant person that the prohibition of disclosure is no longer applicable.

''(e) JUDICIAL REVIEW.—

''(1) IN GENERAL.—At any time before the return date specified in a summons issued under this section, the person or entity summoned may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the summons.

''(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—Any court described under paragraph (1) may modify or set aside a nondisclosure requirement imposed under subsection (d) at the request of a person to whom a subpoena has been directed, unless there is reason to believe that the nondisclosure requirement is justified because otherwise there may result a danger to the national security of the United States.

''(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

''(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

''(g) REPORTING REQUIREMENT.—The Attorney General shall submit to the Select Committee on Intelligence of the Senate and the permanent Select Committee on Intelligence of the House of Representatives each year a report setting forth with respect to the 1-year period ending on the date of such report—

''(1) the aggregate number of subpoenas issued under this section; and

''(2) the circumstances under which each such subpoena was issued.

''(h) GUIDELINES.—The Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section.''.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

''2332g. Judicially enforceable terrorism subpoenas.''.

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**SA 3793.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ___—TRANSIT PROTECTION**

**Subtitle A—Railroad Carriers and Mass Transportation Protection Act**

**SEC. ___01. SHORT TITLE.**

This subtitle may be cited as the ''Railroad Carriers and Mass Transportation Protection Act of 2004''.

**SEC. ___02. ATTACKS AGAINST RAILROAD CARRIERS, PASSENGER VESSELS, AND MASS TRANSPORTATION SYSTEMS.**

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

**''§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air**

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

''(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

''(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

''(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

''(c) CRIMES AGAINST PUBLIC SAFETY OFFICER.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

''(d) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(e) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

''(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

''(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

''(f) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

''(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

''(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

''(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

''(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(15) the term 'State' has the meaning given to that term in section 2266;

''(16) the term 'toxin' has the meaning given to that term in section 178(2);

''(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

''(18) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking ''**RAILROADS**'' in the chapter heading and inserting ''**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**'';

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

''1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.''.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

**''97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991''**.

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking ''1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),'';

(B) in section 2339A, by striking ''1993,''; and

(C) in section 2516(1)(c) by striking ''1992 (relating to wrecking trains),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),''.

## Subtitle B—Reducing Crime and Terrorism at America's Seaports Act

**SEC. ___11. SHORT TITLE.**

This subtitle may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2004''.

**SEC. ___12. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or'';

(2) in subsection (b)(1), by striking ''5'' and inserting ''10'';

(3) in subsection (c)(1), by inserting '', captain of the seaport,'' after ''airport authority''; and

(4) in the section heading, by inserting ''or seaport'' after ''airport''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

''1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.''.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

**''§ 26. Definition of seaport**

''As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, and buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

''26. Definition of seaport.''.

**SEC. ___13. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.**

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

**''§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information**

''(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

''(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

''(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

''(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

''(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

''(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

''(d) In this section—

''(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

''(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

''(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

''(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

''2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.''.

**SEC. ___14. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.**

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking ''(G)'' and inserting ''(H)'';

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

''(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;''; and

(2) in paragraph (2) by striking ''(C) or (E)'' and inserting ''(C), (E), or (F)''.

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

**''§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce**

''(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

''(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

''2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.''.

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

**''§ 2282. Knowing discharge or release**

''(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

''(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

''(c) DEFINITIONS.—In this section:

''(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

''(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

''(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

''(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

''(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''2282. Knowing discharge or release.''.

**SEC. ___15. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.**

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this Act, is amended by adding at the end the following:

**''§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials**

''(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

''(b) DEFINITIONS.—In this section:

''(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

''(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

''(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

''(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

''(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

''(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

''(A) source material and special nuclear material, but does not include natural or depleted uranium;

''(B) nuclear by-product material;

''(C) material made radioactive by bombardment in an accelerator; or

''(D) all refined isotopes of radium.

''(7) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

''(8) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

**''§ 2284. Transportation of terrorists**

''(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

**SEC. ___16. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.**

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 111 the following:

**''CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES**

''Sec.

''2290. Jurisdiction and scope.

''2291. Destruction of vessel or maritime facility.

''2292. Imparting or conveying false information.

''2293. Bar to prosecution.

**''§ 2290. Jurisdiction and scope**

''(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

''(1) within the United States or within waters subject to the jurisdiction of the United States; or

''(2) outside United States and—

''(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(B) the activity involves a vessel in which a national of the United States was on board; or

''(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

''(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

**''§ 2291. Destruction of vessel or maritime facility**

''(a) OFFENSE.—Whoever willfully—

''(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

''(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or

destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

''(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

''(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7): shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

''(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

''(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

''(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

**''§ 2292. Imparting or conveying false information**

''(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

''(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

**''§ 2293. Bar to prosecution**

''(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

''(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

''(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

''(b) DEFINITIONS.—In this section:

''(1) LABOR DISPUTE.—The term 'labor dispute' has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

''(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

''111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290''.

**SEC. ___17. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.**

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(2) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years''; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transhipment or otherwise.''.

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

''''Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

**SEC. ___18. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.**

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking ''or aircraft pilot'' and inserting '', aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)'';

(2) striking ''$5,000'' and inserting ''$10,000''; and

(3) striking ''$10,000'' and inserting ''$25,000''.

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking ''$2,000'' and inserting ''$10,000''.

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking ''$1,000'' in each place it occurs and inserting ''$10,000''.

**SEC. ___19. STOWAWAYS ON VESSELS OR AIRCRAFT.**

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year, or both.'' and inserting the following:

''(1) shall be fined under this title, imprisoned not more than 5 years, or both;

''(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

''(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.''.

**SEC. ___20. BRIBERY AFFECTING PORT SECURITY.**

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

**"§ 226. Bribery affecting port security**

''(a) IN GENERAL.—Whoever knowingly—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

''(A) to commit international or domestic terrorism (as that term is defined under section 2331);

''(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

''(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

''(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

''(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

''(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism;

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) DEFINITION.—In this section, the term 'secure or restricted area' has the meaning given that term in section 2285(c).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''226. Bribery affecting port security.''.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Ms. COLLINS. 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 September 29, 2004, at 10 a.m., to conduct a hearing on ''The 9/11 Commission and Efforts to Identify and Combat Terrorist Financing.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 29, 2004, at 3 p.m., to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 29, 2004, at 9:30 a.m. in room 216 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by an oversight hearing on Lobbying Practices Involving Indian Tribes regarding allegations of misconduct associated with lobbying and related activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Ms. COLLINS. 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, September 29 at 2:30 p.m.

The purpose of the hearing is to receive testimony on the following bills: S. 2378, to provide for the conveyance of certain public land in Clark County, NV, for use as a heliport; S. 2410, to promote wildland firefighter safety; H.R. 1651, to provide for the exchange of land within the Sierra National Forest, California, and for other purposes; H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 3874, to convey for public purposes certain Federal lands in Riverside County, CA, that have been identified for disposal; H.R. 4170, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior; and Senate Resolution 387, a resolution commemorating the 40th anniversary of the Wilderness Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on September 29, 2004, at 2 pm, on Embryonic Stem Cell Research: Exploring the Controversy.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Ms. COLLINS. Mr. President, I ask unanimous consent that Claude Berube, a legislative fellow in my office, be granted the privileges of the floor during the debate on S. 2845, the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent that Jack Livingston, a fellow on the Intelligence Committee staff, be granted floor privileges during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Sarah Helgen during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Kate Kaufer, a detailee with the Defense Appropriations Subcommittee, during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that John Shuhart, a detailee of the Governmental Affairs Committee, be accorded the privilege of the floor for the duration of the debate on S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, on behalf of Senator DOLE, I ask unanimous consent that John Ulrich, a military fellow in her office, be granted floor privileges during the consideration of the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT

Mr. SESSIONS. Mr. President, I ask unanimous consent that all first-degree amendments from the limited list to the pending legislation be filed at the desk no later than 4 p.m., Thursday, September 30; provided further that it be in order for the sponsor of any amendment to modify the filed amendment with consent of their respective leader.

The PRESIDING OFFICER. Is there objection?

The Democratic whip.

Mr. REID. I want to make sure the record reflects that a large number of Senators on both sides of the aisle filed relevant amendments. We want to make sure those amendments are allowed to be offered in keeping with the order that was previously entered in this matter that states all amendments be related to the subject matter of the bill. So ''related'' should do the trick.

Mr. SESSIONS. Mr. President, insofar as that is the agreement, and I understand it is, the Senator is correct.

Mr. REID. If the Senator will yield for just a brief comment, if Senators have already filed their amendments, do not do it again. All it does is confuse the staff. If Senators have filed the amendments, do not file them again. If there is some question, come and talk to the staff before sending over more amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SENATE LEGAL COUNSEL AUTHORIZATION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 443, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 443) to authorize testimony, document production, and legal representation in United States versus Roberto Martin.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, documents, and representation in a criminal action pending in Florida Federal District Court. In this action, the defendant is charged with impersonating an agent of the Central Intelligence Agency, conspiracy to impersonate a CIA agent, possession of a firearm after a felony conviction, and mail fraud. The indictment alleges that the defendant unjustly enriched himself by obtaining money from third parties upon the false representation that he was working with the CIA on a secret operation to obtain funds allegedly stolen from Cuban leader Fidel Castro. According to the prosecution, in furtherance of the alleged fraud, the defendant or his co-conspirators provided to third parties a fictitious letter purportedly signed by Senator GRAHAM.

The defendant's trial is scheduled to commence on or about November 1, 2004. The prosecution has requested testimony and the production of documents from a member of the Senator's staff who has evidence relevant to the charged offenses. Senator GRAHAM wishes to cooperate with the prosecution's request. Accordingly, the enclosed resolution authorizes that staff member, and any other employees of Senator GRAHAM's office from whom evidence may be required, to testify and produce documents in this action. The enclosed resolution also authorizes representation by the Senate legal counsel of Senator GRAHAM's staff in this action.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 443) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 443

Whereas, in the case of United States v. Roberto Martin, Crim. No. 04–CR–20075, pending in federal district court in the Southern District of Florida, testimony and documents have been requested from an employee in the office of Senator Bob Graham;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That employees of Senator Graham's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the case of United States v. Roberto Martin, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Graham's staff in the action referenced in section one of this resolution.

## MEASURES PLACED ON THE CALENDAR—S. 2852, H.R. 1084, AND H.R. 1787

Mr. SESSIONS. Mr. President, I understand there are three bills at the desk and due for a second reading. I ask unanimous consent that the clerk read the titles of the bills for a second time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the bills by title for the second time.

The legislative clerk read as follows:

A bill (S. 2852) to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

A bill (H.R. 1084) to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

A bill (H.R. 1787) to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

Mr. SESSIONS. I would object to any further consideration, en bloc.

The PRESIDING OFFICER. The objection is heard. The bills will be placed on the calendar.

## MEASURE READ THE FIRST TIME—S. 2866

Mr. SESSIONS. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 2866) to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

Mr. SESSIONS. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, object to further proceedings on this matter.

The PRESIDING OFFICER. The bill will be read for the second time on the next legislative day.

## TAX TREATMENT OF BONDS AND OTHER OBLIGATIONS ISSUED BY THE GOVERNMENT OF AMERICAN SAMOA

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 655, H.R. 982.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 982) to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 982) was read the third time and passed.

## REAUTHORIZATION OF THE CONGRESSIONAL AWARD ACT

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 693, S. 2639, the Congressional Award Act Reauthorization bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2639) to reauthorize the Congressional Award Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the Craig amendment, which is at the desk, be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3784) was agreed to, as follows:

(Purpose: To clarify acceptance of Federal funds and resources)

After section 1, insert the following:

**SEC. 2. FEDERAL FUNDS AND RESOURCES.**

(a) TECHNICAL AMENDMENTS; CLARIFICATION OF ACCEPTANCE OF FEDERAL FUNDS AND RESOURCES.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (a)(1), by striking ''from sources other than the Federal Government'';

(2) in the heading of subsection (e), by striking ''NON-FEDERAL FUNDS AND RESOURCES; INDIRECT RESOURCES'' and inserting ''FUNDS AND RESOURCES'';

(3) in subsection (e)—

(A) in paragraph (1), by striking ''Subject to the provisions of paragraph (2), the'' and inserting ''The''; and

(B) by striking paragraph (2) and inserting the following:

''(2) The Board—

''(A) may benefit from in-kind and indirect resources provided by Offices of Members of Congress;

''(B) is not prohibited from receiving benefits from efforts or activities undertaken in

collaboration with entities which receive Federal funds or resources; and

''(C) may not accept more than one-half of all funds accepted from Federal sources.''; and

(4) adding at the end the following:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board to carry out this Act $750,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009.''.

The bill (S. 2639), as amended, was read the third time and passed, as follows:

S. 2639

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

**SECTION 1. REAUTHORIZATION OF THE CONGRESSIONAL AWARD ACT.**

(a) EXTENSION OF REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.—Section 104(c)(2)(A) of the Congressional Award Act (2 U.S.C. 804(c)(2)(A)) is amended by striking ''and 2004'' and inserting ''2004, 2005, 2006, 2007, 2008, and 2009''.

(b) TERMINATION.—Section 108 of the Congressional Award Act (2 U.S.C. 808) is amended by striking ''October 1, 2004'' and inserting ''October 1, 2009''.

(c) TECHNICAL AMENDMENTS.—The Congressional Award Act is amended—

(1) in section 103(b)(3)(B) (2 U.S.C. 803(b)(3)(B)), by striking ''section'' each place it appears and inserting ''subsection''; and

(2) in section 104(c)(2)(A) (2 U.S.C. 804(c)(2)(A)), by inserting a comma after ''1993''.

**SEC. 2. FEDERAL FUNDS AND RESOURCES.**

(a) TECHNICAL AMENDMENTS; CLARIFICATION OF ACCEPTANCE OF FEDERAL FUNDS AND RESOURCES.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (a)(1), by striking ''from sources other than the Federal Government'';

(2) in the heading of subsection (e), by striking ''NON-FEDERAL FUNDS AND RESOURCES; INDIRECT RESOURCES'' and inserting ''FUNDS AND RESOURCES'';

(3) in subsection (e)—

(A) in paragraph (1), by striking ''Subject to the provisions of paragraph (2), the'' and inserting ''The''; and

(B) by striking paragraph (2) and inserting the following:

''(2) The Board—

''(A) may benefit from in-kind and indirect resources provided by Offices of Members of Congress;

''(B) is not prohibited from receiving benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources; and

''(C) may not accept more than one-half of all funds accepted from Federal sources.''; and

(4) adding at the end the following:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board to carry out this Act $750,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009.''.

## DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY ACT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 4259, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4259) to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

HOMELAND SECURITY STRATEGY

Mr. LIEBERMAN. Mr. President, I rise to call attention to a critical piece of this legislation—the requirement in section 5 of H.R. 4259, the Department of Homeland Security Financial Accountability Act, for an annual homeland security strategy.

Before 9/11, we did not truly perceive the threat of terrorism on our own soil, and what homeland security efforts we did have underway were badly divided. Dozens of agencies responsible for pieces of our homeland security were scattered across the Federal Government, and were largely unconnected to State and local officials and first responders on the front lines in our nation's cities and towns. There were overlaps and, more critically, treacherous gaps. And because everyone was responsible for parts of the effort, no one was ultimately in charge.

We took one large step to remedy these weaknesses by creating the Department of Homeland Security, DHS. The Department brings more than two dozen of the Federal Government's critical homeland security agencies and programs under one roof, allowing for unprecedented coordination and cooperation. It also created a Cabinet Secretary charged with managing the budget and personnel of these agencies, and capable of providing a focal point for homeland programs and issues in the Cabinet and beyond.

But we knew that in addition to creating a better organization we would need to lay out a clear roadmap to galvanize our homeland defenses—at all levels of Government and the private sector. That is what many of us called for and, regretfully, it is something this Nation still sorely lacks.

The administration did produce a ''National Strategy for Homeland Security'' in July 2002 that correctly identified many of the challenges we face in preparing to meet the threat of terrorism. But that document predates the creation of the Department of Homeland Security and is already badly out of date.

More significantly, as the highly regarded Gilmore Commission on terrorism noted in its final report last December:

Much is still required in order to achieve an effective, comprehensive, unified national strategy and to translate vision into action. Notably, absent is a clear prioritization for the use of scarce resources against a diffuse, unclear threat as part of the spectrum of threats—some significantly more common than terrorism. The panel has serious concerns about the current state of homeland security efforts along the full spectrum from awareness to recovery and is worried that efforts by the government may provide the perception of enhanced security that causes the nation to become complacent about the many critical actions still required.

It is true that the Department of Homeland Security is proceeding with some more targeted strategic regarding specific areas of concern, but these cannot replace a comprehensive strategy that sets the ultimate policies and priorities for our homeland effort.

That is why I am pleased that the legislation before us calls upon the administration to develop and update its homeland security strategy in connection with its budgeting process for the Department of Homeland Security. More specifically, the legislation requires that the Secretary for Homeland Security:

. . . set forth the homeland security strategy of the department, which shall be developed and updated as appropriate annually . . .

and explain how that strategy relates to the Department's planned budgeting.

As it does so, the administration should adhere to the guiding principles laid out in the February 3, 2004 report by the General Accounting Office, GAO, now referred to as the Government Accountability Office, regarding the Nation's various strategies related to terrorism and homeland security. In that report, the GAO surveyed 7 existing Federal strategies related to terrorism—including the National Strategy for Homeland Security—and laid out guiding principles to improve these strategies. These principles stress accountability and prioritization as requirements for a sound strategy. The new strategy must employ risk assessment and analysis to help prioritize strategic goals, then indicate the specific activities needed to achieve those goals, as well as the likely costs and how such funds should be generated. In other words, the strategy must make real choices about priorities and resources. The current strategy identifies many goals, but rarely provides real deadlines for action, standards or performance measures to assess progress, or details on the resources required for stated initiatives.

The strategy should clearly spell out organizational roles and responsibilities, including the proper roles of State, local, private and international actors and the coordinating mechanisms to bring these actors together. Almost 3 years after 9/11, we still too often must ask ''who is in charge?'' of key pieces of our homeland security agenda. And, critically, the homeland security strategy must address how it relates to other Federal strategies regarding terrorist threats, and how the strategies will be integrated.

Such a strategy must also provide more leadership on critical components of our homeland effort, such as a thoroughgoing strategy to maximize information sharing related to homeland security throughout the Federal Government and with state and local officials

and, where appropriate, the private sector. The strategy must look at preparing the public health sector to detect and respond to terrorist attacks, at integrating military capabilities into our homeland security planning, at building emergency preparedness throughout all levels of Government and the private sector, and securing our critical infrastructure, much of which is in private hands.

While the Department of Homeland Security is central to our effort to protect the homeland, many critical components of the homeland security effort nonetheless lie outside the Department. An effective strategy must address all key homeland security programs, and should involve the cooperation of the Homeland Security Council and the President's Special Assistant for Homeland Security to assist the Secretary in gathering appropriate input from throughout the Federal government.

The Department of Homeland Security has made important strides in improving our homeland defenses. But in the face of ongoing threats of terrorist attacks on our homeland, we cannot afford anything less than our best effort. Today, we still lack strong direction on critical aspects of our homeland security effort. A new and more forceful national strategy will energize and organize our resources—at all levels of Government and within the private sector—to better meet the threats ahead.

Ms. COLLINS. Mr. President, I thank my colleague for his comments on this important issue, and rise to add my own remarks on the critical importance of building a strong homeland security strategy. As members of the Governmental Affairs Committee labored over legislation to create the Department of Homeland Security, we became well acquainted with the daunting array of programs and policies that are part of our homeland security effort. In creating the Department, and through efforts we have undertaken since that time, the committee has worked to help supply the Department of Homeland Security with the tools it will need to be successful. Our oversight work has demonstrated the need to have a strong national strategy to guide our homeland efforts. I agree with my colleague that GAO and others have identified ways in which our homeland security strategy could be strengthened and updated. This legislation will facilitate improvements by requiring that the administration lay out its homeland security strategy anew, and coordinate this strategy with its annual budget requests. This should bring out strategic vision into sharper view, and ensure that adequate resources are sought and secured to carry out homeland priorities.

FINANCIAL ACCOUNTABILITY

Mr. BINGAMAN. Mr. President, I would like to express my support for passage of H.R. 4259, the Department of Homeland Security Financial Accountability Act. This Act will apply the Chief Financial Officers Act of 1990 to the Department of Homeland Security, and will codify the existence of an Office of Program Analysis and Evaluation within the Department. This latter provision, which was not part of the Senate-passed companion bill, S. 1567, is an important one, and I would like to engage in a colloquy with the chair and ranking member of the Committee on Governmental Affairs to clarify what is and is not intended by this provision.

The Department of Homeland Security is charged with carrying out a wide range of activities related to our domestic security. In my view, it is probably the executive department with the broadest range of activities that need to be coordinated and reconciled from a programmatic standpoint. It is crucial that the Department have a robust programmatic coordination function at the highest level, and that this function have, at its base, a strong analytical capability for purposes of setting priorities among the disparate parts of the Department for purposes of budget formulation and execution. For this reason, the statutory creation of an Office of Program Analysis and Evaluation, and the mandate that it report no lower in the organization than directly to the new chief financial officer, is very sound.

There is another related function in the Department of Homeland Security that has been given a different placement by statute. That is the function of test and evaluation for developing homeland security priorities and for assessing specific technologies. Under section 302 of the Homeland Security Act of 2002, the Under Secretary for Science and Technology within the Department of Homeland Security was given statutory missions for, among other things, ''assessing and testing homeland security vulnerabilities and possible threats,'' ''testing and evaluation activities that are relevant to any or all elements of the Department'' and ''coordinating and integrating all research, development, testing, and evaluation activities of the Department.'' It is crucial that these testing and evaluation functions remain under the management of the Under Secretary for Science and Technology, because they need strong scientific management and focus. We cannot afford to spend constrained Federal funds for homeland security on approaches or technologies that are not technically sound, or that are not cost-effective compared to other technologies.

I do not believe that there is an inherent conflict between the new statutory office created by this bill and the existing statutory assignments in the Homeland Security Act. Offices like the proposed Office of Program Analysis and Evaluation exist in several executive departments, and are generally more focused on assessing programmatic directions, outcomes, resources, and priorities. The test and evaluation function, in contrast, focuses more specifically on technical issues and relative technical merits. In the Department of Defense, for example, both functions are in distinct organizations that work together where appropriate to complement the different strengths and missions that each brings to the table. It would be my assumption that this is the outcome that Congress wants to see in the case of the Department of Homeland Security.

With this as background, I would like to ascertain from my colleagues, the chair and ranking member of the Committee on Governmental Affairs, if they agree with my understanding that the statutory creation of the new Office of Program Analysis and Evaluation is not meant to supersede or alter the testing and evaluation function that Congress has previously assigned to the Under Secretary of Homeland Security for Science and Technology.

Ms. COLLINS. The Senator is correct.

Mr. LIEBERMAN. The Senator is correct.

Mr. BINGAMAN. I thank my colleagues.

Mr. SESSIONS. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4259) was read the third time and passed.

## CONGRATULATING AND COMMENDING THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AND ITS NATIONAL COMMANDER-IN-CHIEF, JOHN FURGESS OF TENNESSEE

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 444, which was submitted earlier today by Senator FRIST.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 444) congratulating and commending the Veterans of Foreign Wars of the United States and its National Commander-in-Chief, John Furgess of Tennessee.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

Mr. REID. I ask the Senator from Nevada, Mr. REID, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 444) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 444

Whereas the organization now known as the Veterans of Foreign Wars of the United States (''VFW'') was founded in Columbus, Ohio, on September 29, 1899;

Whereas the VFW represents approximately 2,000,000 veterans of the Armed Forces who served overseas in World War I, World War II, Korea, Vietnam, the Persian Gulf War, Bosnia, Iraq, and Afghanistan; and

Whereas the VFW has, for the past 105 years, provided voluntary and unselfish service to the Armed Forces and to veterans, communities, States, and the United States, and has worked toward the betterment of veterans in general and society as a whole: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the historic significance of the 105th anniversary of the founding of the Veterans of Foreign Wars of the United States (''VFW'');

(2) congratulates the VFW on achieving that milestone;

(3) commends the approximately 2,000,000 veterans who belong to the VFW and thanks them for their service to their fellow veterans and the United States; and

(4) recognizes the VFW's national Commander-in-Chief, John Furgess, for his service and dedication to the veterans of the United States.

## BINDING ARBITRATION FOR SALT RIVER PIMA-MARICOPA INDIAN RESERVATION CONTRACTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 652, H.R. 4115.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4115) to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4115) was read the third time and passed.

## INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT OF 2003

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 438, S. 1601.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1601) to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1601

*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 ''Indian Child Protection and Family Violence Prevention Reauthorization Act of 2003''.

**[SEC. 2. FINDINGS AND PURPOSE.**

[Section 402 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201) is amended—

[(1) in subsection (a)—

[(A) by striking paragraph (1) and inserting the following:

[''(1) finds that—

[''(A) Indian children are the most precious resource of Indian tribes and need special protection by the United States;

[''(B) the number of reported incidences of child abuse on Indian reservations continues to rise at an alarming rate, but the reduction of such incidences is hindered by the lack of—

[''(i) community awareness in identification and reporting methods;

[''(ii) interagency coordination for reporting, investigating, and prosecuting; and

[''(iii) tribal infrastructure for managing, preventing, and treating child abuse cases;

[''(C) improvements are needed to combat the continuing child abuse on Indian reservations, including—

[''(i) education to identify symptoms consistent with child abuse;

[''(ii) extensive background investigations of Federal and tribal employees, volunteers, and contractors who care for, teach, or otherwise have regular contact with Indian children;

[''(iii) strategies to ensure the safety of child protection workers; and

[''(iv) support systems for the victims of child abuse and their families; and

[''(D) funds spent by the United States on Indian reservations for the benefit of Indian victims of child abuse or family violence are inadequate to combat child abuse and to meet the growing needs for mental health treatment and counseling for those victims and their families.'';

[(B) in paragraph (2)—

[(i) by striking ''two'' and inserting ''the'';

[(ii) in subparagraph (B)—

[(I) by inserting after ''provide funds for'' the following: ''developing a comprehensive tribal child abuse and family violence program including training and technical assistance for identifying, addressing, and decreasing such incidents and for''; and

[(II) by striking the period at the end and inserting a semicolon; and

[(iii) by adding at the end the following:

[''(C) implement strategies to increase the safety of child protection workers;

[''(D) assist tribes in developing the necessary infrastructure to combat and reduce child abuse on Indian reservations; and

[''(E) identify and remove impediments to the prevention and reduction of child abuse on Indian reservations, including elimination of existing barriers, such as difficulties in sharing information among agencies and differences between the values and treatment protocols of the different agencies.''; and

[(2) in subsection (b)—

[(A) in paragraph (1), by striking ''prevent further abuse'' and inserting ''prevent and prosecute child abuse'';

[(B) in paragraph (2), by striking ''authorize a study to determine the need for a central registry for reported incidents of abuse'' and inserting ''build tribal infrastructure needed to maintain and coordinate databases'';

[(C) by striking paragraph (3);

[(D) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

[(E) in paragraph (3) (as redesignated by subparagraph (D)), by striking ''sexual'';

[(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking ''Area'' and inserting ''Regional'';

[(G) in paragraph (6) (as redesignated by subparagraph (D))—

[(i) by inserting ''child abuse and'' after ''incidents of''; and

[(ii) by inserting ''through tribally-operated programs'' after ''family violence'';

[(H) by inserting after paragraph (6) (as redesignated by subparagraph (D)) the following:

[''(7) conduct a study to identify the impediments to effective prevention, investigation, prosecution, and treatment of child abuse;''; and

[(I) by striking paragraph (8) and inserting the following:

[''(8) develop strategies to protect the safety of the child protection workers while performing responsibilities under this title; and''.

**[SEC. 3. DEFINITIONS.**

[Section 403(3) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(3)) is amended—

[(1) in subparagraph (A), by striking ''and'' at the end;

[(2) in subparagraph (B), by adding ''and'' at the end; and

[(3) by adding at the end the following:

[''(C) any case in which a child is subjected to family violence;''.

**[SEC. 4. REPORTING PROCEDURES.**

[Section 404(b) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3203(b)) is amended by adding at the end the following:

[''(3) COOPERATIVE REPORTING.—If—

[''(A) a report of abuse or family violence involves an alleged abuser who is a non-Indian; and

[''(B) a preliminary inquiry indicates a criminal violation has occurred;

the local law enforcement agency (if other than the State law enforcement agency) shall immediately report the occurrence to the State law enforcement agency.''.

**[SEC. 5. CENTRAL REGISTRY.**

[The Indian Child Protection and Family Violence Prevention Act is amended by striking section 405 (25 U.S.C. 3204) and inserting the following:

**[''SEC. 405. BARRIERS TO IMPLEMENTATION.**

[''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General, shall conduct a study to identify impediments to the reduction of child abuse on Indian reservations.

[''(b) MATTERS TO BE EVALUATED.—In conducting the study under subsection (a), the Secretary shall, at a minimum, evaluate the interagency and intergovernmental cooperation and jurisdictional impediments in investigations and prosecutions.

[''(c) REPORT.—

[''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall submit to Congress a report that describes the results of the study under subsection (a).

[''(2) CONTENTS.—The report under paragraph (1) shall include—

[''(A) any findings made in the study;

[''(B) recommendations on ways to eliminate impediments described in subsection (a); and

[''(C) cost estimates for implementing the recommendations.''.

**[SEC. 6. CHARACTER INVESTIGATIONS.**

[Section 408 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3207) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by inserting ''(including contracted and volunteer positions),'' after ''authorized positions''; and

[(B) in paragraph (3), by striking the period at the end and inserting the following: '', which—

[''(A) shall include a background check, based on a set of fingerprints of the employee, volunteer or contractor that may be conducted through the Federal Bureau of Investigation; and

[''(B) may include a review of applicable State criminal history repositories.''; and

[(2) in subsection (c)—

[(A) in paragraph (1), by inserting after ''who is'' the following: ''a volunteer or contractor or is''; and

[(B) in paragraph (2), by striking ''employ'' and inserting ''contract with, accept, or employ''.

**[SEC. 7. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.**

[Section 409 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3208) is amended—

[(1) in subsection (a), by striking ''sexual'';

[(2) by redesignating subsection (e) as subsection (f);

[(3) by inserting after subsection (d) the following:

[''(e) DEMONSTRATION PROJECT.—

[''(1) IN GENERAL.—The Secretary of Health and Human Services shall establish demonstration projects to facilitate the development of a culturally-sensitive traditional healing treatment program for child abuse and family violence to be operated by an Indian tribe, tribal organization, or inter-tribal consortium.

[''(2) APPLICATION.—

[''(A) IN GENERAL.—An Indian tribe, tribal organization, or inter-tribal consortium may submit an application to participate in a demonstration project in such form as the Secretary of Health and Human Services may prescribe.

[''(B) CONTENTS.—As part of an application under subparagraph (A), the Secretary of Health and Human Services shall require—

[''(i) the information described in subsection (b)(2)(C);

[''(ii) a proposal for development of educational materials and resources, to the extent culturally appropriate; and

[''(iii) proposed strategies to use and maintain the integrity of traditional healing methods.

[''(3) CONSIDERATIONS.—In selecting the participants in demonstration projects established under this subsection, the Secretary of Health and Human Services shall give special consideration to projects relating to behavioral and emotional effects of child abuse, elimination of abuse by parents, and reunification of the family.''; and

[(4) in subsection (f) (as redesignated by paragraph (2))—

[(A) by striking ''there'' and inserting ''There''; and

[(B) by striking ''$10,000,000 for each of the years 1992, 1993, 1994, 1995, 1996 and 1997'' and inserting ''such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010, of which a specific sum shall be specifically set aside each year for the demonstration projects established under subsection (e).''.

**[SEC. 8. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.**

[Section 410 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3209) is amended—

[(1) in subsection (a) by striking ''area'' and inserting ''Regional'';

[(2) in subsection (b)—

[(A) by striking ''Secretary and'' and inserting ''Secretary,''; and

[(B) by striking ''Services'' and inserting ''Services, and the Attorney General'';

[(3) in subsection (d)(5), by striking ''area'' and inserting ''Region'';

[(4) in subsection (f)—

[(A) in the second sentence, by striking ''an area'' and inserting ''a Regional''; and

[(B) in the last sentence, by inserting ''developing strategies,'' after ''Center in'';

[(5) in the second sentence of subsection (g)—

[(A) by striking ''an area'' and inserting ''a Regional''; and

[(B) by striking ''Juneau Area'' and inserting ''Alaska Region''; and

[(6) in subsection (h), by striking ''$3,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996 and 1997'' and inserting ''such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010''.

**[SEC. 9. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.**

[Section 411 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3210) is amended—

[(1) in subsection (c)—

[(A) in paragraph (1), by inserting ''coordination, reporting and'' before ''investigation'';

[(B) in paragraph (2) by inserting ''child abuse and'' after ''incidents of'';

[(2) in subsection (d)—

[(A) in paragraph (1)(C), by inserting ''and other related items'' after ''equipment''; and

[(B) in paragraph (3)—

[(i) in subparagraph (B), by striking '', and'' at the end and inserting a semicolon;

[(ii) in subparagraph (C), by inserting after ''responsibilities'' the following: ''and specify appropriate measures for ensuring child protection worker safety while performing responsibilities under this title''; and

[(iii) by adding at the end the following:

[''(D) provide for training programs or expenses for child protection services personnel, law enforcement personnel or judicial personnel to meet any certification requirements necessary to fulfill the responsibilities under any intergovernmental or interagency agreement; and

[''(E) develop and implement strategies designed to ensure the safety of child protection workers while performing responsibilities under this Act;'';

[(3) in paragraph (6), by striking ''and'' at the end;

[(4) by redesignating paragraph (7) as paragraph (8);

[(5) by inserting after paragraph (6) the following:

[''(7) infrastructure enhancements to improve tribal data systems to monitor the progress of families, evaluate service and treatment outcomes, and determine the most effective approaches and activities; and''

[(6) by redesignating subsections (f), (g), (h), and (i) as paragraphs (e), (f), (g), and (h), respectively;

[(7) in paragraph (1) of subsection (g) (as redesignated by paragraph (6)), by striking subparagraph (A) and inserting the following:

[''(A) evaluate the program for which the award is made, including examination of—

[''(i) the range and scope of training opportunities, including numbers and percentage of child protection workers engaged in the training programs;

[''(ii) the threats to child protection workers, if any, and the strategies used to address the safety of child protection workers; and

[''(iii) the community outreach and awareness programs including any strategies to increase the ability of the community to contact appropriate reporting officials regarding occurrences of child abuse.''; and

[(8) in subsection (h) (as redesignated by paragraph (6)), by striking ''$30,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996 and 1997'' and inserting ''such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010.''.]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Indian Child Protection and Family Violence Prevention Reauthorization Act of 2004''.*

***SEC. 2. FINDINGS AND PURPOSE.***

*Section 402 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201) is amended—*

*(1) in subsection (a)—*

*(A) by striking paragraph (1) and inserting the following:*

*''(1) finds that—*

*''(A) Indian children are the most precious resource of Indian tribes and need special protection by the United States;*

*''(B) the number of reported incidences of child abuse on Indian reservations continues to rise at an alarming rate, but the reduction of such incidences is hindered by the lack of—*

*''(i) community awareness in identification and reporting methods;*

*''(ii) interagency coordination for reporting, investigating, and prosecuting; and*

*''(iii) tribal infrastructure for managing, preventing, and treating child abuse cases;*

*''(C) improvements are needed to combat the continuing child abuse on Indian reservations, including—*

*''(i) education to identify symptoms consistent with child abuse;*

*''(ii) extensive background investigations of Federal and tribal employees, volunteers, and contractors who care for, teach, or otherwise have regular contact with Indian children;*

*''(iii) strategies to ensure the safety of child protection workers; and*

*''(iv) support systems for the victims of child abuse and their families; and*

*''(D) funds spent by the United States on Indian reservations for the benefit of Indian victims of child abuse or family violence are inadequate to combat child abuse and to meet the growing needs for mental health treatment and counseling for those victims and their families.'';*

*(B) in paragraph (2)—*

*(i) by striking ''two'' and inserting ''the'';*

*(ii) in subparagraph (B)—*

*(I) by inserting after ''provide funds for'' the following: ''developing a comprehensive tribal child abuse and family violence program including training and technical assistance for identifying, addressing, and decreasing such incidents and for''; and*

*(II) by striking the period at the end and inserting a semicolon; and*

*(iii) by adding at the end the following:*

*''(C) implement strategies to increase the safety of child protection workers;*

*''(D) assist tribes in developing the necessary infrastructure to combat and reduce child abuse on Indian reservations; and*

*''(E) identify and remove impediments to the prevention and reduction of child abuse on Indian reservations, including elimination of existing barriers, such as difficulties in sharing information among agencies and differences between the values and treatment protocols of the different agencies.''; and*

(2) in subsection (b)—

(A) in paragraph (1), by striking ''prevent further abuse'' and inserting ''prevent and prosecute child abuse'';

(B) in paragraph (2), by striking ''authorize a study to determine the need for a central registry for reported incidents of abuse'' and inserting ''build tribal infrastructure needed to maintain and coordinate databases'';

(C) by striking paragraph (3);

(D) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

(E) in paragraph (3) (as redesignated by subparagraph (D)), by striking ''sexual'';

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking ''Area'' and inserting ''Regional'';

(G) in paragraph (6) (as redesignated by subparagraph (D))—

(i) by inserting ''child abuse and'' after ''incidents of''; and

(ii) by inserting ''through tribally-operated programs'' after ''family violence'';

(H) by inserting after paragraph (6) (as redesignated by subparagraph (D)) the following:

''(7) conduct a study to identify the impediments to effective prevention, investigation, prosecution, and treatment of child abuse;''; and

(I) by striking paragraph (8) and inserting the following:

''(8) develop strategies to protect the safety of the child protection workers while performing responsibilities under this title; and''.

**SEC. 3. DEFINITIONS.**

Section 403(3) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(3)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(C) any case in which a child is exposed to family violence;''.

**SEC. 4. REPORTING PROCEDURES.**

Section 404(b) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3203(b)) is amended by adding at the end the following:

''(3) COOPERATIVE REPORTING.—If—

''(A) a report of abuse or family violence involves an alleged abuser who is a non-Indian; and

''(B) a preliminary inquiry indicates a criminal violation has occurred;

the local law enforcement agency (if other than the State law enforcement agency) shall immediately report the occurrence to the State law enforcement agency.''.

**SEC. 5. BARRIERS TO REDUCING CHILD ABUSE.**

The Indian Child Protection and Family Violence Prevention Act is amended by striking section 405 (25 U.S.C. 3204) and inserting the following:

**''SEC. 405. BARRIERS TO REDUCING CHILD ABUSE.**

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General, shall conduct a study to identify impediments to the reduction of child abuse on Indian reservations.

''(b) MATTERS TO BE EVALUATED.—In conducting the study under subsection (a), the Secretary shall, at a minimum, evaluate the interagency and intergovernmental cooperation and jurisdictional impediments in investigations and prosecutions.

''(c) REPORT.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this paragraph, the Secretary shall submit to Congress a report that describes the results of the study under subsection (a).

''(2) CONTENTS.—The report under paragraph (1) shall include—

''(A) any findings made in the study;

''(B) any recommendations that the Secretary considers appropriate on ways to eliminate impediments described in subsection (a); and

''(C) cost estimates for implementing the recommendations.''.

**SEC. 6. CHARACTER INVESTIGATIONS.**

Section 408 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3207) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''(including contracted and volunteer positions),'' after ''authorized positions''; and

(B) in paragraph (3), by striking the period at the end and inserting the following: '', which—

''(A) shall include a background check, based on a set of fingerprints of the employee, volunteer or contractor that may be conducted through the Federal Bureau of Investigation; and

''(B) may include a review of applicable State and tribal criminal history repositories.''; and

(2) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by striking ''Each'' and inserting the following:

''(1) IN GENERAL.—Each'';

(C) in subparagraph (A) (as redesignated by subparagraph (A)), by inserting after ''who is'' the following: ''a volunteer or contractor or is'';

(D) in subparagraph (B) (as redesignated by subparagraph (A)), by striking ''employ'' and inserting ''contract with, accept, or employ''; and

(E) by adding at the end the following:

''(2) SATISFACTION OF REQUIREMENTS.—

''(A) INVESTIGATIONS.—An investigation conducted under paragraph (1)(A) shall be considered to satisfy any requirement under any other Federal law for a background check in connection with the placement of an Indian child in a foster or adoptive home, or an institution.

''(B) LICENSING OR APPROVAL.—On certification by an Indian tribe that the Indian tribe is in compliance with paragraph (1), the licensing or approval of guardianships, foster or adoptive homes, or institutions by an Indian tribe in accordance with tribal law shall be considered to be equivalent to licensing or approval by a State for the purposes of any law that authorizes placement in or provides funding for guardianships, foster or adoptive homes, or institutions.''.

**SEC. 7. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.**

Section 409 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3208) is amended—

(1) in subsection (a), by striking ''sexual'';

(2) by redesignating subsection (e) as subsection (f);

(3) by inserting after subsection (d) the following:

''(e) DEMONSTRATION PROJECT.—

''(1) IN GENERAL.—The Secretary of Health and Human Services shall establish demonstration projects to facilitate the development of a culturally-sensitive traditional healing treatment program for child abuse and family violence to be operated by an Indian tribe, tribal organization, or inter-tribal consortium.

''(2) APPLICATION.—

''(A) IN GENERAL.—An Indian tribe, tribal organization, or inter-tribal consortium may submit an application to participate in a demonstration project in such form as the Secretary of Health and Human Services may prescribe.

''(B) CONTENTS.—As part of an application under subparagraph (A), the Secretary of Health and Human Services shall require—

''(i) the information described in subsection (b)(2)(C);

''(ii) a proposal for development of educational materials and resources, to the extent culturally appropriate; and

''(iii) proposed strategies to use and maintain the integrity of traditional healing methods.

''(3) CONSIDERATIONS.—In selecting the participants in demonstration projects established under this subsection, the Secretary of Health and Human Services shall give special consideration to projects relating to behavioral and emotional effects of child abuse, elimination of abuse by parents, and reunification of the family.''; and

(4) in subsection (f) (as redesignated by paragraph (2))—

(A) by striking ''there'' and inserting ''There''; and

(B) by striking ''$10,000,000 for each of the years 1992, 1993, 1994, 1995, 1996 and 1997'' and inserting ''such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010, of which a specific sum shall be specifically set aside each year for the demonstration projects established under subsection (e).''.

**SEC. 8. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.**

Section 410 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3209) is amended—

(1) in subsection (a) by striking ''area'' and inserting ''Regional'';

(2) in subsection (b)—

(A) by striking ''Secretary and'' and inserting ''Secretary,''; and

(B) by striking ''Services'' and inserting ''Services, and the Attorney General'';

(3) in subsection (d)(5), by striking ''area'' and inserting ''Region'';

(4) in subsection (f)—

(A) in the second sentence, by striking ''an area'' and inserting ''a Regional''; and

(B) in the last sentence, by inserting ''developing strategies,'' after ''Center in'';

(5) in the second sentence of subsection (g)—

(A) by striking ''an area'' and inserting ''a Regional''; and

(B) by striking ''Juneau Area'' and inserting ''Alaska Region''; and

(6) in subsection (h), by striking ''$3,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996 and 1997'' and inserting ''such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010''.

**SEC. 9. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.**

Section 411 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3210) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by inserting ''coordination, reporting and'' before ''investigation'';

(B) in paragraph (2) by inserting ''child abuse and'' after ''incidents of'';

(2) in subsection (d)—

(A) in paragraph (1)(C), by inserting ''and other related items'' after ''equipment''; and

(B) in paragraph (3)—

(i) in subparagraph (B), by striking '', and'' at the end and inserting a semicolon;

(ii) in subparagraph (C), by inserting after ''responsibilities'' the following: ''and specify appropriate measures for ensuring child protection worker safety while performing responsibilities under this title''; and

(iii) by adding at the end the following:

''(D) provide for training programs or expenses for child protection services personnel, law enforcement personnel or judicial personnel to meet any certification requirements necessary to fulfill the responsibilities under any intergovernmental or interagency agreement; and

''(E) develop and implement strategies designed to ensure the safety of child protection workers while performing responsibilities under this Act;'';

(3) in paragraph (6), by striking ''and'' at the end;

(4) by redesignating paragraph (7) as paragraph (8);

*(5) by inserting after paragraph (6) the following:*

*''(7) infrastructure enhancements to improve tribal data systems to monitor the progress of families, evaluate service and treatment outcomes, and determine the most effective approaches and activities; and''*

*(6) by redesignating subsections (f), (g), (h), and (i) as paragraphs (e), (f), (g), and (h), respectively;*

*(7) in paragraph (1) of subsection (g) (as redesignated by paragraph (6)), by striking subparagraph (A) and inserting the following:*

*''(A) evaluate the program for which the award is made, including examination of—*

*''(i) the range and scope of training opportunities, including numbers and percentage of child protection workers engaged in the training programs;*

*''(ii) the threats to child protection workers, if any, and the strategies used to address the safety of child protection workers; and*

*''(iii) the community outreach and awareness programs including any strategies to increase the ability of the community to contact appropriate reporting officials regarding occurrences of child abuse.''; and*

*(8) in subsection (h) (as redesignated by paragraph (6)), by striking ''$30,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996 and 1997'' and inserting ''such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010.''.*

***SEC. 10. INTEGRATION OF SERVICES.***

*The Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.) is amended by adding at the end the following:*

***''SEC. 412. INTEGRATION OF SERVICES.***

*''(a) DEMONSTRATION PROJECT.—In cooperation with the Secretary of Health and Human Services and Attorney General, the Secretary shall, on the receipt of a plan acceptable to the Secretary that is submitted by an Indian tribe, tribal organization, or inter-tribal consortium, authorize the Indian tribe, tribal organization, or inter-tribal consortium to carry out a demonstration project to coordinate, in accordance with the plan, its federally funded child abuse-related service programs in a manner that integrates the program services into a single coordinated, comprehensive program that reduces administrative costs by consolidating administrative functions.*

*''(b) INTEGRATION OF PROGRAMS.—*

*''(1) IN GENERAL.—Subject to paragraph (2), an Indian tribe, tribal organization, or inter-tribal consortium may integrate any program under which the Indian tribe, tribal organization, or inter-tribal consortium is eligible for receipt of funds under a statutory or administrative formula, competitive grant, or any other funding scheme for the purposes of addressing child abuse.*

*''(2) COMPETITIVE GRANT PROGRAMS.—In the case of a competitive grant program, the consent of the funding agency shall be required for integration of the program under paragraph (1).*

*''(c) PLAN REQUIREMENTS.—A plan under subsection (a) shall—*

*''(1) identify the programs to be integrated;*

*''(2) be consistent with the purposes of this Act;*

*''(3) describe a comprehensive strategy that identifies the full range of existing and potential child abuse and family violence prevention, treatment, and service programs available on or near the service area of the Indian tribe;*

*''(4) describe the manner in which services are to be integrated and delivered and the results expected from the plan;*

*''(5) identify the projected expenditures under the plan in a single budget;*

*''(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;*

*''(7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and*

*''(8) be approved by the governing body of the affected Indian tribe or tribes.*

*''(d) OTHER FEDERAL AGENCIES.—*

*''(1) CONSULTATION.—On receipt of the plan from an Indian tribe, tribal organization, or inter-tribal consortium, the Secretary shall consult with—*

*''(A) the head of each Federal agency providing funds to be used to implement the plan; and*

*''(B) the Indian tribe, tribal organization, or inter-tribal consortium.*

*''(2) WAIVER.—Notwithstanding any other provision of law, the Attorney General or appropriate Secretary shall waive any regulation, policy, or procedure promulgated by the agency identified in the plan, unless the waiver would be inconsistent with this Act or any statutory requirement applicable to the program to be integrated under the plan that is specifically applicable to Indian programs.*

*''(e) APPROVAL OR DISAPPROVAL.—*

*''(1) NOTICE.—Not later than 90 days after receipt of the plan, the Secretary shall notify the Indian tribe, tribal organization, or inter-tribal consortium, in writing, of the approval or disapproval of the plan.*

*''(2) DISAPPROVAL.—If the plan is disapproved—*

*''(A) the notice under paragraph (1) shall inform the Indian tribe, tribal organization, or inter-tribal consortium of the reasons for the disapproval; and*

*''(B) the Indian tribe, tribal organization, or inter-tribal consortium shall be given an opportunity to amend the plan or petition the Secretary to reconsider the disapproval.*

*''(f) RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.—*

*''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of Health and Human Services, and the Attorney General shall enter into a memorandum of agreement providing for the implementation of demonstration projects under this section.*

*''(2) COORDINATING AGENCY.—The coordinating agency in carrying out this section shall be the Bureau of Indian Affairs.*

*''(3) RESPONSIBILITIES.—*

*''(A) IN GENERAL.—The responsibilities of the coordinating agency shall include—*

*''(i) the development of a single report format which shall be used by the tribe, tribal organization, or inter-tribal consortium to report on all the plan activities and expenditures;*

*''(ii) the development of a single system of Federal oversight of demonstration projects, which shall be implemented by the coordinating agency; and*

*''(iii) the provision of, or arrangement for, technical assistance to an Indian tribe, tribal organization, or inter-tribal consortium.*

*''(B) REQUIREMENTS.—The report form developed under subparagraph (A)(i) shall require disclosure of such information as the Secretary determines will—*

*''(i) allow a determination that the Indian tribe, tribal organization, or inter-tribal consortium has complied with the requirements incorporated in the approved plan of the Indian tribe; and*

*''(ii) provide assurances to each funding agency that the Indian tribe, tribal organization, or inter-tribal consortium has complied with all applicable statutory requirements that have not been waived.*

*''(g) NO REDUCTION.—In no case shall the amount of Federal funds made available to any tribal government conducting a demonstration project be reduced by reason of the conduct of the demonstration project.*

*''(h) TRANSFER OF FUNDS.—The Secretary, Secretary of Health and Human Services, or Attorney General, as appropriate, may take such action as is necessary to provide for an inter-agency transfer of funds otherwise available to an Indian tribe, tribal organization, or inter-tribal consortium to carry out this section immediately upon the request of the Indian tribe, tribal organization, or inter-tribal consortium.*

*''(i) ADMINISTRATION OF FUNDS.—*

*''(1) IN GENERAL.—The funds of programs that are integrated under this section shall be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount attracted from each program) are spent on allowable activities authorized under the program.*

*''(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section requires an Indian tribe, tribal organization, or inter-tribal consortium to—*

*''(A) maintain separate records tracing any services or activities conducted under an approved plan to the individual programs under which funds were authorized; or*

*''(B) allocate expenditures among individual programs.*

*''(3) ADMINISTRATIVE COSTS.—*

*''(A) COMMINGLING.—All administrative costs under an approved plan may be commingled.*

*''(B) ENTITLEMENT TO FULL AMOUNT.—An Indian tribe, tribal organization, or inter-tribal consortium shall be entitled to the full amount of funding of administrative costs in accordance with regulations applicable to each program.*

*''(C) EXCESS FUNDS.—Any excess of funds available to pay administrative costs, shall not be counted for Federal audit purposes, if the funds are used for the purposes provided for under this title.*

*''(j) FISCAL ACCOUNTABILITY.—Nothing in this section diminishes the duty of the Secretary to fulfill the responsibility of safeguarding Federal funds in accordance with chapter 75 of title 31, United States Code.*

*''(k) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—*

*''(1) PRELIMINARY REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to Congress a preliminary report on the status of the implementation of the demonstration program under this section.*

*''(2) FINAL REPORT.—Not later than 6 years after the date of enactment of this section, the Secretary shall submit to Congress a report that—*

*''(A) describes the results of the implementation of this section; and*

*''(B) identifies statutory barriers to more effective integration of program services in a manner consistent with this section.''.*

***SEC. 11. TRIBAL PARTNERSHIPS FOR AWARENESS AND RESPONSES.***

*(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:*

*''(d) TRIBAL COALITION GRANTS.—*

*''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—*

*''(A) increasing awareness of domestic violence and sexual assault against Indian women;*

*''(B) enhancing the response to violence against Indian women at the Federal, State, and tribal levels; and*

*''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.*

*''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—*

*''(A) established nonprofit, nongovernmental tribal coalitions that address domestic violence and sexual assault against Indian women; and*

*''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.*

*''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by a tribal domestic violence and sexual assault coalition shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.*

*(b) FUNDING.—Section 2007(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(b)) is amended by striking paragraph (4) and inserting the following:*

*''(4) 1/54 shall be available for grants under section 2001(d);''.*

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, en bloc, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1601), as amended, was passed.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.J. Res. 107, the continuing resolution which is at the desk; provided that the joint resolution be read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 107) was read the third time and passed.

## REAUTHORIZING NATIVE AMERICAN PROGRAMS ACT OF 1974

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 634, S. 2436.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2436) to reauthorize the Native American Programs Act of 1974.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 2436

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

**SECTION 1. NATIVE AMERICAN PROGRAMS ACT OF 1974.**

*(a) INTRA-DEPARTMENTAL COUNCIL ON NATIVE AMERICAN AFFAIRS.—Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended by striking ''There'' and all that follows and inserting the following: ''There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner and the Director of the Indian Health Service shall serve as co-chairpersons of the Council. The co-chairpersons shall advise the Secretary on all matters affecting Native Americans that involve the Department.''.*

[(a) IN GENERAL.—] *(b) AUTHORIZATION OF APPROPRIATIONS.*—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking subsections (a) through (c) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated—

''(1) to carry out section 803(d), $8,000,000 for each of fiscal years 2005 through 2009; and

''(2) to carry out provisions of this title other than section 803(d) and any other provision having an express authorization of appropriations, such sums as are necessary for each of fiscal years 2005 through 2009.

''(b) LIMITATION.—Not less than 90 percent of the funds made available to carry out this title for a fiscal year (other than funds made available to carry out sections 803(d), 803A, 803C, and 804, and any other provision of this title having an express authorization of appropriations) shall be expended to carry out section 803(a).'';

(2) by redesignating subsection (d) as subsection (c); and

(3) by striking subsection (e).

[(b)] *(c)* REPORTS.—Section 811A of the Native American Programs Act of 1974 (42 U.S.C. 2992–1) is amended—

(1) by striking the section heading and all that follows through ''each year,'' and inserting the following:

**''SEC. 811A. REPORTS.**

''Every 5 years, the Secretary shall''; and

(2) by striking ''an annual report'' and inserting ''a report''.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee-reported amendments be considered and agreed to. I understand Senator INOUYE has an amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table without intervening action or debate, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The amendment (No. 3783) was agreed to, as follows:

(Purpose: To authorize research and educational activities relating to Native Hawaiian law)

At the end, add the following:

**SEC. 2. RESEARCH AND EDUCATIONAL ACTIVITIES.**

Section 7205(a)(3) of the Native Hawaiian Education Act (20 U.S.C. 7515(a)(3)) is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

''(K) research and educational activities relating to Native Hawaiian law;''.

The bill (S. 2436), as amended, was read the third time and passed, as follows:

S. 2436

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

**SECTION 1. NATIVE AMERICAN PROGRAMS ACT OF 1974.**

(a) INTRA-DEPARTMENTAL COUNCIL ON NATIVE AMERICAN AFFAIRS.—Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended by striking ''There'' and all that follows and inserting the following: ''There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner and the Director of the Indian Health Service shall serve as co-chairpersons of the Council. The co-chairpersons shall advise the Secretary on all matters affecting Native Americans that involve the Department.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking subsections (a) through (c) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated—

''(1) to carry out section 803(d), $8,000,000 for each of fiscal years 2005 through 2009; and

''(2) to carry out provisions of this title other than section 803(d) and any other provision having an express authorization of appropriations, such sums as are necessary for each of fiscal years 2005 through 2009.

''(b) LIMITATION.—Not less than 90 percent of the funds made available to carry out this title for a fiscal year (other than funds made available to carry out sections 803(d), 803A, 803C, and 804, and any other provision of this title having an express authorization of appropriations) shall be expended to carry out section 803(a).'';

(2) by redesignating subsection (d) as subsection (c); and

(3) by striking subsection (e).

(c) REPORTS.—Section 811A of the Native American Programs Act of 1974 (42 U.S.C. 2992–1) is amended—

(1) by striking the section heading and all that follows through ''each year,'' and inserting the following:

**''SEC. 811A. REPORTS.**

''Every 5 years, the Secretary shall''; and

(2) by striking ''an annual report'' and inserting ''a report''.

**SEC. 2. RESEARCH AND EDUCATIONAL ACTIVITIES.**

Section 7205(a)(3) of the Native Hawaiian Education Act (20 U.S.C. 7515(a)(3)) is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

''(K) research and educational activities relating to Native Hawaiian law;''.

## ORDERS FOR THURSDAY, SEPTEMBER 30, 2004

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate adjourns today, it adjourn until 9:30 a.m. on Thursday, September 30; 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, and the Senate then resume consideration of S. 2845, the intelligence reform bill; provided that upon conclusion of the debate on the pending Warner amendment, Senator GRAHAM of Florida be recognized to offer the next amendment.

Mr. REID. Mr. President, I have spoken to the necessary parties. I ask that this request be modified to allow Senator BYRD to speak for up to 20 minutes following the first vote we have tomorrow.

The PRESIDING OFFICER. Does the Senator accept the modification?

Mr. SESSIONS. We have no objection.

Mr. REID. I have no objection to the request of the Senator from Alabama.

The PRESIDING OFFICER. Without objection, the request is modified as agreed to.

## PROGRAM

Mr. SESSIONS. For the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. We had good debate on the bill today, disposing of several amendments. In addition, we were able to lock in a final list of amendments and a filing deadline for tomorrow, as well, so that Members will be able to view actual legislative text for each amendment.

For the remainder of the day tomorrow we will continue working through amendments to the bill. The chairman and ranking member will be here to receive amendments. Again, we will complete action on the bill prior to adjourning. Senators who wish to offer amendments are encouraged to work with the managers to get their amendments pending. Senators should expect rollcall votes throughout the day.

I observe that when the Senate passed fiscal year 2005 Defense appropriations conference report, we adopted discretionary spending levels for all fiscal year 2005 appropriations of $821.9 billion. Unfortunately, the continuing resolution, H.J. Res. 107, authorized an annualized spending level of more than $840 billion because section 103 of the resolution allows billions in 2004 supplemental appropriations to continue into a new fiscal year. It is my understanding the House of Representatives will shortly pass a bill to correct this problem and eliminate funding in the CR for any one-time 2004 spending items. It also is my understanding that the majority leader and Chairman STEVENS will seek to have the Senate consider that correction whenever it becomes available. I believe it is essential we comply with the spending limits we previously adopted, and I look forward to working with my colleagues to ensure that we do.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:36 p.m., adjourned until Thursday, September 30, 2004, at 9:30 a.m.

# EXTENSIONS OF REMARKS

## S. 2634, THE GARRETT LEE SMITH ACT

### HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. BALDWIN. Mr. Speaker, I rise to bring attention to a tragic issue that faces our country today: youth suicide. On September 9th, the House of Representatives passed, with my full support, S. 2634, the Garrett Lee Smith Act. The Act was named in honor of Senator GORDON SMITH's son who committed suicide last year. This legislation establishes grants for suicide prevention efforts directed at young people, authorizes the creation of a technical assistance center to help local and state providers of suicide prevention programs; and establishes a grant program for suicide prevention programs on college campuses. I am proud to support for this bill and confident that it will make a difference in the lives of countless young people in south central Wisconsin and across our Nation.

We must do all we can to nurture and support our Nation's greatest asset—our children. Suicide is currently the third leading cause of death among teenagers in the United States. Too many young people think they are facing lives that lack hope and promise. We must do everything we can to help our youth through difficult times and teach them that life is indeed worth living. The Garrett Lee Smith Act will go a long way to help in that effort.

Youth suicide is at epidemic proportions. All youth are at risk. But I want to speak about a group of youth who are sometimes invisible, ignored, or worse—condemned for simply being who they are. I am talking about America's gay, lesbian, bisexual and transgender youth.

Allow me to tell you a true story. When the people of Wisconsin first elected me to Congress, I received a letter from an 18 year-old from a small town in southern Illinois—population forty-four hundred. This young man had a passion for public service. He wrote, ''I was president of my graduating class, treasurer of the student council, and senior board member on a local community service youth group . . .'' Here was a young man who cared about others, and who was already a valuable, productive member of his community. But then I read the next lines of his letter, and was devastated. It read, ''I was following my dreams, until I realized that I am gay. At that point, I gave up.''

Luckily, this story has a happy ending. Surfing the internet one day, this young man read an article about my being the first out lesbian elected to Congress. Thankfully he realized that he could be honest about himself as an openly gay man and still devote his life to public service. But, he went on in his letter to explain the real reason he was writing me. He told me that by reading about my story, ''You not only saved my hopes and dreams, you saved my life. I have never told anyone this. I was on the edge before I read that article. The pressures had built up in me to the point of suicide. I was going to give up, not only on my hopes and dreams, but on my life altogether.'' The pressures he was talking about were not only the difficulties that all American youth face today, but the steady drip, drip, drip of intolerance and discrimination he experienced as he tried to live his life honestly as a gay man.

That young man needed and did not have access to adequate suicide prevention services. According to the Massachusetts Youth Risk Behavior Survey, lesbian, gay, bisexual, and transgender youth are four times more likely to report attempting suicide than their heterosexual peers. Along with the growing acceptance of gay, lesbian, bisexual and transgender Americans, the Garrett Lee Smith Act will help ensure that all young people, including our LGBT youth, have access to high quality and effective suicide prevention services.

None of America's youth should consider suicide as an option to end pain in their lives. I am thankful for the passage of the Garrett Lee Smith Act, and am committed to doing all I can to combating youth suicide.

## THANKING MS. MEMORY SHERARD FOR HER SERVICE TO THE HOUSE

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. NEY. Mr. Speaker, on the occasion of her retirement on September 30, 2004, we rise to thank Ms. Memory Sherard for outstanding service to the U.S. House of Representatives. For the past 28 years, Memory has served this great institution as a valuable employee of House Information Resources (HIR) within the Office of the Chief Administrative Officer.

While at HIR, Memory held many positions of increasing responsibility, requiring her to learn and support new and evolving computer technologies. Memory began her career in 1976 as a Production Control Specialist. She then progressed to Programmer Trainee, Coordinator for the Member Information Network (MIN) Support Team, and Messaging Systems Specialist.

As the House began to use personal computers, Memory supported the House community explaining the benefits of electronic mail and the Internet, and how these could be beneficial tools for Member and Committee offices. As technology evolved, so did Memory, mastering and supporting more than six different e-mail systems. Memory helped emplace the Federal Funding Report (FFR) in 1981, now in its 24th year as Web based service.

Since 1993, Memory has been an invaluable member of HIR's Information Management directorate where she had primary responsibility for Customer Support for the mission critical E-mail, Enterprise Fax, and BlackBerry services. Memory has displayed great passion for her work and has always kept customer satisfaction as her highest priority.

On behalf of the entire House community, we extend congratulations to Memory for her many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish Memory many wonderful years in fulfilling her retirement dreams.

## CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

SPEECH OF

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 23, 2004*

Mr. LANGEVIN. Mr. Speaker, I rise today in support of the conference report for H.R. 1308, the Working Families Tax Relief Act. While I would have preferred a revenue neutral version of this bill that did not add to the national debt, this legislation does deliver continued tax relief for working families at a time when assistance is greatly needed.

Most importantly, this bill extends, through 2010, three family-friendly tax cuts scheduled to expire at the end of the year. These policies include continuation of the expanded 10 percent tax bracket, extension of marriage penalty relief, and expansion of the child tax credit. Without Congressional action, every American subject to the income tax, especially families with children, would face higher taxes next year. A tax increase is the last thing that my constituents need during these difficult economic times as Rhode Island's unemployment rate continues to hover above the national average.

This bill finally allows members of the military to use combat pay to qualify for the child tax credit. I have been pushing for this long overdue provision for more than a year, and I am pleased that Rhode Island servicemembers now will receive the credit they deserve while they risk their lives for us every day.

In addition, H.R. 1308 extends Alternative Minimum Tax relief, continues tax credits for renewable energy, and renews the Research and Development Tax Credit. These extenders serve a wide range of causes including promoting economic development and reducing our dependence on foreign oil.

The bill is far from perfect. Much of the cost of this legislation comes from the expansion of the child tax credit to those who earn more than $200,000 per year. However, the 9.2 million children in families earning under $11,000 will still not receive the $1,000 child tax credit that almost every other wealthier family will receive. There is still time to include these families, and I urge my colleagues to support tax relief for all Americans.

I am committed to sensible tax relief for the middle class, but I am also concerned about our national debt. With a national debt of more than $7.3 trillion, each additional dollar the government spends or uses for a tax cut must be paid back by future generations. This bill adds nearly $150 billion to the debt over ten years. I would have preferred that these tax cut extenders be offset by either reducing the tax cuts for the tiny fractions of Americans who earn more than $1 million per year or by cutting federal spending. Unfortunately, the majority has done neither. This is not fiscal leadership, and this explains why a record surplus of just 4 years ago has turned into a record deficit today.

I encourage my colleagues to join me in supporting H.R. 1308, the Working Families Tax Relief Act to provide needed relief to Rhode Islanders. However, I also urge a more fiscally responsible approach when dealing with tax cuts and spending to ensure future generations are not left with the bill.

## IN HONOR OF FIRST LIEUTENANT TYLER BROWN

### HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. MAJETTE. Mr. Speaker, it is with profound sadness that I rise today to honor a true patriot for his heroic courage under fire—Lieutenant Tyler Brown.

Lieutenant Brown, who was from Atlanta, Georgia, made the ultimate sacrifice on September 14, 2004, when he gave his life in service to our country while on duty with the United States Army in Iraq. His untimely and unfortunate passing serves as a reminder that freedom comes at a terrible cost, and that we all live in a free land because so many like Tyler have died to protect those cherished freedoms.

Although Lieutenant Brown was with us but for an all too brief time on this earth, he will forever remain in the hearts of the family and friends who so dearly loved him. The example he set by his service, by his devotion, and by his loyalty to his country will, like a beacon, shine a ray of light through the darkness to show the way for all those who follow in his footsteps.

I'm confident that, by answering his nation's call to service, Lt. Brown understood all too well that he, like so many other brave men and women, could be thrust into harm's way in the pursuit of peace and liberty and the protection of freedom. These are perilous times, and events taking place throughout the world, even within our own borders, have sharpened our focus on the grave dangers around us. Yes, Lt. Brown understood the nature of his service, and stepped forward proudly to represent the best that is within us. With great admiration and respect, we honor him today.

In spite of the tears that are flowing, and the sharp pain residing deep within us, may we be comforted by the knowledge that Tyler is now safely in God's hands, that he has been welcomed home with a warm, secure and loving embrace.

I offer my condolences to his family and friends. We all share your grief; we all mourn your loss. My prayers are with you.

## JOE SKEEN FEDERAL BUILDING

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. BILIRAKIS. Mr. Speaker, last week the House approved H.R. 3734, which would designate the federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the "Joe Skeen Federal Building." Naming this building after our late colleague would be a tremendous honor to his memory and his family, and I strongly support this legislation to accomplish that goal.

Representative Skeen was a dedicated patriot who answered the call of his country by joining the Navy and the Air Force Reserves. He built his life on helping people, serving his neighbors and fellow citizens in the New Mexico State Senate before being elected to the U.S. House of Representatives as a write-in candidate in 1980. He served in this venerable body for 22 years, the longest-serving Member of the House from New Mexico. He was respected by his colleagues and loved by his constituents for being honest, caring, and hard-working.

I had the privilege of serving with Joe for 20 years in Congress, and I am proud to have been his friend. I remember many conversations I had with Joe over the years. He spent much of his time on this floor sitting in the "Florida corner," delighting us with his wonderful sense of humor and thoughtful opinions. He is greatly missed.

Mr. Speaker, Joe's death from Parkinson's disease in December 2003 may have closed the book on a life characterized by unfailing public service, but it did not extinguish his memory, which lives on in the hearts of his family, his friends, and the Members of this body. The "Joe Skeen Federal Building" will stand as a testament to the great New Mexican who served his constituents and the people of the United States so tirelessly for many decades. I thank my colleagues for honoring Joe by approving H.R. 3734.

## HONORING THE MEMORY OF CESAR HERNANDEZ

### HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today to honor the memory of Cesar Hernandez.

Cesar died on July 5th of this year at age 61. His contribution to New Mexico lives on. Cesar was publisher of the Spanish language newspaper, La Razon.

With a circulation of 17,000 copies, Cesar's newspaper is a major source of news and information for the substantial Spanish-speaking population of New Mexico.

This newspaper's importance to the population it serves is difficult to over-emphasize. We live in an era of news up-to-the minute and always available, but to a person who reads or understands primarily Spanish, the sources of information are often rare or incomplete. La Razon fills that gap and offers its readers valuable, practical information for their day-to-day lives.

Cesar's family will never forget the day they became New Mexicans, because it was September 11, 2001. Cesar started his newspaper one week later. Cesar logged decades of experience in radio and newspaper, and got his start in Chicago, Illinois. Today, his work goes on in New Mexico under the direction of his wife, Antoinette, and his family.

In 3 years, Cesar contributed much to his adopted state, New Mexico. As his daughter Leslie put it, "My father loved the newspaper." We're proud to recognize Cesar Hernandez, and we honor his memory and contribution to New Mexico.

## RECOGNIZING THE ACCOMPLISHMENTS OF WOMEN ATHLETES AT THE 2004 SUMMER OLYMPICS

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. SLAUGHTER. Mr. Speaker, I rise today on behalf of the Congressional Caucus for Women's Issues and its leaders, Congresswomen SHELLEY MOORE CAPITO, GINNY BROWN-WAITE and HILDA L. SOLIS and myself, to honor the amazing achievements of the women athletes at the 2004 Olympics in Athens, Greece. In particular, I want to celebrate the success of the United States Women's Soccer Team, who made us proud by winning a gold medal at the 2004 Olympics, beating Brazil 2–1 in overtime, on August 26, 2004.

I would especially like to recognize Julie Foudy and Brandi Chastain, our honored guests for a Congressional Caucus for Women's Issues reception today, Tuesday, September 28, 2004, celebrating the accomplishments of female U.S. Olympic athletes. As Captain and 16-year veteran of the U.S. Women's National Team, Julie Foudy is one of the most influential athletes in the United States. Through the end of 2003, she had started in 229 of the 239 games in which she appeared, including all six of the world championship events played by the U.S. women. And if that was not impressive enough, she scored in all four of the Women's World Cup tournaments. Her teammate, Brandi Chastain, another longstanding player on the U.S. Women's Soccer Team, provided one of the greatest moments in the history of sports with her penalty kick on the USA's fifth shot in the 1999 Women's World Cup Final at the Rose Bowl.

These women have become some of the most famous athletic role models on earth. They have taught our children that if you work hard and you believe in yourself, you can accomplish anything. Indeed, these women are helping to fundamentally change perceptions about athletics. It is no surprise that our little girls look up to these strong, motivated women for inspiration. But to also see little boys wearing jerseys emblazoned with the names of their favorite women players is a wonderful sight. The accomplishments of this generation of women athletes demonstrates the profound impact that Title IX has had on increasing opportunities in sports for women and girls. Title IX, part of the Education Amendments of 1972 requiring that public schools and colleges provide equal educational and athletic opportunities for girls and women, has unquestionably been a tremendous success. The members of

the U.S. Women's Soccer team have been tireless advocates for Title IX. Their efforts have helped the Women's Caucus and our male colleagues to preserve and strengthen this historic law.

It is important for girls to have every opportunity to succeed, especially when it comes to athletics. That is why the leadership of the Congressional Caucus for Women's Issues has introduced H.R. 4994, the High School Athletics Accountability Act. This bill will require schools to report to the Department of Education basic data on the number of female and male students in their athletic programs and the expenditures made for their sports teams. Currently high schools are not required to disclose any data on equity in sports, making it difficult for schools and parents to ensure fairness in athletics programs. Better information can help high schools and parents of schoolchildren foster fairness in athletic opportunities for girls and boys.

As a testament to the power of these women, their fan appreciation tour, which kicks off in Rochester, on September 25, sold out all 14,000 seats in just minutes. I have introduced a bill in Congress, H. Res. 373, which supports the re-establishment of the Women's United Soccer Association (WUSA). Hopefully, some day the WUSA will return, to give every amazing female soccer player the professional athletic opportunities in the United States they so deeply deserve.

Thank you to all the women Olympic athletes for transforming the lives and attitudes of today's young women, and for those of generations to come. We all know that girls who compete in sports perform better in school, are physically healthier and have a stronger self-esteem. Our girls have learned that sweat is sexy, brawn is beautiful and a little dirt never hurt anyone. You have truly given us all a whole lot more to celebrate, work hard for and dream about.

## HONORING LARRY AND MARIE DANNER, EXEMPLARY COMMUNITY ACTIVISTS

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. STARK. Mr. Speaker, I rise to honor two outstanding individuals, Larry and Marie Danner, for their outstanding civic contributions to Alameda County, California. They have been involved with their community work for over 35 years.

Larry Danner began his career in 1965 as a police officer with the Fremont Police Department where he worked for nine years before joining the Bay Area Rapid Transit (BART) Police Department. He retired in 1994 as a Commander and second in command of the BART Police Department. Larry was instrumental in the growth of BART's security system. The system developed into a full-fledged Police Department that required 90 college credits for employment.

Marie Danner is a California State Certified Trial Court Interpreter and has been sole proprietor of Contreras Court Interpreters for over 35 years in the San Francisco Bay Area.

Marie and Larry have been involved in numerous projects. They have worked together as well as single-handedly to make a difference in the lives of others. Marie is most proud of her work as a board member of the Hispanic Community Affairs Council of Alameda County, an organization that raises $100,000 in scholarships yearly for Hispanic students. For over twenty years, Marie was a commissioner for the Fremont Sister Cities Commission. She was one of the first women to join the Rotary Club and was one of the first women to serve on the Board of Directors of the Hispanic Chamber of Commerce. She is the former chair of the National Women's Political Caucus and the Hispanic Community Affairs Council Scholarship Fund.

Larry was among the founders of Fremont Babe Ruth Baseball, Inc. and helped with fundraising to build the Fremont Senior Center. He is former vice-president and current treasurer of the American G.I. Forum, and was the project director and designer for the U.S. flag monument at Fremont's Veterans Park.

On October 1, 2004, Larry and Marie Danner will be honored by SAVE (Shelter Against Violent Environments) for their outstanding work to raise domestic violence awareness in the community. Larry served on SAVE's board of directors for six years. Larry and Marie continue to work tirelessly to support SAVE and many other organizations in their community. Their many years of advocacy and service are exemplary and I join all who admire their good works in expressing appreciation for Marie and Larry Danner's contributions.

## HONORING DIANE DEVALT AS SHE IS RECOGNIZED WITH THE USO'S 2004 SPIRIT OF HOPE AWARD

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. DELAURO. Mr. Speaker, I rise today to recognize one of my constituents, Diane Devalt of Stratford, CT. On Wednesday, September 17, Diane was awarded the USO's annual Spirit of Hope Award, which is named for the late actor-comedian Bob Hope. The Spirit of Hope Award was created by President Clinton in 1997, and its first recipient was Bob Hope, in whose name the award is given. With so many of our troops serving in harm's way, I believe that this award has special significance this year.

Diane earned this award for her service as key volunteer coordinator of the 1st Truck Platoon, Naval-Marine Corps Reserve Center in New Haven. It is a job she took in 2001 and took on new significance when her son, Corporal Daniel Gorton was deployed to Iraq for six months last year. Mr. Speaker, Diane is a full-time fifth-grade school teacher in Stratford. She took this task on in July 2001 with no formal training and immediately turned the program completely around. According to her citation, Diane took over a family readiness program that was virtually non-existent and made "significant contributions during a full-scale Mobilization, Activation and Deployment."

Among Diane's most important responsibilities as the unit's key volunteer coordinator was to train volunteers to serve as an emotional support system for the families of Marine reservists deployed overseas. She conducted pre-deployment briefs for Marines and their families, and organized Family Day events for families with loved ones serving in Iraq.

Over the past year, I have met with many families whose loved ones serve in the National Guard or Reserve Corps and are deployed in the war on terror or in Iraq. I can tell you that a strong network of emotional support for the families back home, makes it much easier for our troops abroad to do their work successfully.

Mr. Speaker, Diane is an extraordinary woman who has joined some extraordinary company. By earning this award, Diane joins the ranks of Walter Cronkite, former astronaut and U.S. Senator John Glenn, actress Ann Margret and former President George H.W. Bush. I congratulate her for receiving this award, and I thank her for outstanding work in support of our men and women in uniform.

## HIGHLAND HIGH SCHOOL NATIONAL COMPETITION WINNERS, FIRST CONGRESSIONAL DISTRICT OF NEW MEXICO

### HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mrs. WILSON of New Mexico. Mr. Speaker, the following students of Highland High School, with the aid of their teacher, Steve Seth, have received the Unite Five award at the national finals of the We the People: The Citizen and the Constitution program. This event took place in Washington, DC, where the students competed against classes from all over the country and achieved the highest award through their demonstration of a complete and comprehensive knowledge and understanding of the ideals and values of the American constitutional government.

Influencing over 26.5 million students from elementary to high school, the competition is a simulation of an actual congressional hearing, in which students have the opportunity to speak as constitutional experts before a panel of judges.

History does not happen in the past, we are experiencing it now. These students, by way of their knowledge and outstanding achievement, have demonstrated their knowledge and understanding of our Constitution and the important role our founders played in the structure of our government. They have a strong foundation for citizen involvement in my community and in our country.

I am both proud and honored to recognize these students and their teacher not only for their achievement, but for their hard work and dedication to something so important.

Highland High School Students: Michael Alberti, Celina Baca, Desirae Brown, Aaron Blackwell, Kenyon Bradley, Christina Davis, Rachel Fredman, Iris Garcia, Lucy Gilster, Kegan Godbey, Kori Higgins, Randall Holt, Kelsey Jackson, Samuel Martinez, Carri Pence, Roshoan Ross, Collin Joseph Spears, Deann Lynn Torres, Barbara Wilson, Cassandra Wilson, James Williams, and Ashlee Wright.

## IN HONOR OF KATHERINE EISENBERGER KEOUGH

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. SLAUGHTER. Mr. Speaker, I rise today to honor the life of Dr. Katherine Eisenberger Keough, who served with absolute distinction as President of St. John Fisher College in Pittsford, NY, and departed this life on September 25, 2004. American academia has lost one of its most dedicated leaders, and the communities of Pittsford and Rochester, NY, have lost an exemplary leader and friend.

Since assuming the presidency in 1996, Dr. Keough's tenure at St. John Fisher College was marked by progressive excellence and committed leadership. As the first woman president of a well respected college steeped in religious traditionalism, Katherine Keough ushered in a new and more prominent era at the college; one that will long speak for her, now that her own voice is silent.

Guided by Dr. Keough's expertise and leadership, St. John Fisher College has initiated 20 new graduate and undergraduate programs and a new business school. Student enrollment at the college at this time is very close to double the number of students enrolled at the time Dr. Keough took office. New buildings are currently under construction at the college, which will include Dr. Keough's envisioned School of Pharmacy, a new residence hall and a new student center. Plans for these initiatives were in process at the time of Dr. Keough's untimely demise.

While known for her stately and stoic persona, and widely respected for her strict adherence to personal and professional ethics, Dr. Keough also possessed a kind and generous spirit. Her family and friends will long remember her as an extraordinarily giving individual whose legacy will live on into infinity.

In the 1970's when Dr. Keough's husband, William, visited the American Embassy in Iran before his scheduled return to America from a business trip abroad, he was seized by Iranian rebels and detained as a hostage, along with other unsuspecting Americans. After consideration of all of the relatives associated with the then American hostages in Iran, Dr. Katherine Keough emerged as the individual who could best articulate the thoughts and feelings of American families of hostages to then President Jimmy Carter. Dr. Keough's presentation to President Carter was a poignant one that assisted the President with bringing the hostage situation to a peaceful and successful conclusion.

Mr. Speaker, today it is my great privilege to honor the life and profound works of Dr. Katherine Eisenberger Keough. I wish to extend my thoughts, prayers and deepest sympathy to Dr. Keough's son, Steven, her daughters, Kathryn and Alyssa, her six grandchildren and to her dear friends.

## HONORING MARJORIE BURNS SHERRATT

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. STARK. Mr. Speaker, I rise to honor Marjorie Burns Sherratt for her dedicated service as an educator and advocate for students. Ms. Sherratt retired from her position as Principal of Alameda High School in Alameda, CA, on July 1, 2004, having served 4 years. Her retirement marks the culmination of an exemplary career in the field of education that spans 34 years.

Ms. Sherratt is a lifelong resident of Alameda, CA. She earned her B.A. from California State University, Chico, and a M.A. in School Counseling from the University of La-Verne.

During her three decades of commitment to education and prior to her tenure as Principal of Alameda High School, Ms. Sherratt was a teacher at Wood Middle School, Paden Elementary, Washington Elementary, Lincoln Middle School and Chipman Middle School. She was a counselor at Wood Middle School, a Head Counselor at Alameda High School, District Coordinator of Regional Occupational Programs and Principal of Alameda High School. In addition to her years in the classroom and administrative duties, Ms. Sherratt has also served on numerous committees for youth and educational advancement.

She has also served on boards of civic and professional organizations, including Children's Hospital, Xanthos, Alameda Civic Light Opera, where she was president and on the Board of Directors during the Opera's founding years. Ms. Sherratt was honored by the P.T.A. with two outstanding service awards. She is also a member of the Alameda Boys and Girls Club and the Alameda Girls Club.

Countless young people in the community of Alameda have been guided, inspired, and encouraged by the care and concern shown them by Marjorie Sherratt. I join Ms. Sherratt's friends and admirers in commending her for her illustrious record of accomplishments during her career in the field of education and applaud her for her dedicated efforts.

## TRIBUTE TO RANDY FRY (1954–2004)

### HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. SAXTON. Mr. Speaker, the recreational fishing community is mourning the loss of a dear friend, Randy Fry of Auburn, California, who died while free diving for abalone off the Mendocino coast as a result of an attack by a great white shark on August 15th. He had often said that if he had to go, he wanted to go in the water.

While the international media has focused on the awful details of this tragedy, his friends and fellow members of the Recreational Fishing Alliance (RFA) choose to remember him for his tireless dedication to the interests of West Coast fisheries and recreational anglers and divers everywhere. At the time of his death, he was working full-time as the West Coast Regional Director of the RFA.

Randy Fry grew up in the Fresno area and his dad, now deceased, was an insurance salesman. His mother, Velora, lives in Auburn. He leaves a brother and two sisters, an ex-wife, a grown son and Natalie, his girlfriend he wanted to marry.

He became involved in fisheries management issues when he became concerned about the diminished stocks of rockfish (sebastes) and other nearshore groundfish that are so important to recreational fishermen in California.

Randy took the bull by the horns and started getting people organized to fight recreational fishing closures. He seemed to know everybody, and if he didn't know them personally, he was buddies with someone who did. He was a former SCUBA diving instructor who led diving charters in the Philippines, and he became an avid free-diving spearfisherman who competed in club competitions. He was active in the NorCal Skindivers Club and the Central California Association of Dive Clubs (CENCAL).

He had the perfect personality for this work: he liked people, he was passionate about the ocean and he loved to talk fish politics. He was also always willing to make the sacrifices necessary to get the job done. He was truly one of a kind.

In 2003, Fry was appointed to a fishery management panel on groundfish, which included important species to the recreational nearshore fishery. Randy was also instrumental in building support for the appointment of Darrell Ticehurst, a private recreational angler, to the Pacific Fisheries Management Council (PFMC)—one of the eight regional fishery management councils. He was a champion for reasonable public access to public resources and fair and equitable regulation of recreational fishermen.

Randy went to bat for sportfishermen at scores of meetings of government agencies. Some of the issues Randy worked on include:

Building support for the ''Freedom to Fish Act'' to prevent the implementation of arbitrary no-fishing zones.

He bird-dogged the California Department of Fish & Game over the use of license fees and fishing tackle excise tax revenue, making sure it was used in the best interests of fishermen.

He worked to introduce a bill to make commercial-scale abalone poaching a felony in California.

Randy sheltered low-impact fishing opportunities, like bank angling and spearfishing, from seasonal closures designed to protect shelf rockfish species.

He worked to make ''reasonable and satisfying'' recreational fishing seasons a priority in California management decisions.

Worked toward improving recreational catch data systems, to replace the failures of the past.

Worked to keep the National Marine Sanctuaries out of fishing regulations.

On a personal level, Randy was a fun guy to be around. He was a storyteller and a jokester. He loved to fish for salmon, dive with a spear gun or go bird hunting. He was a realist, and one of his favorite phrases when he had to deliver bad news about next year's fishing regulations was, ''I'm just tellin' ya how the cow eats the cabbage.'' He was an excellent public speaker who wasn't afraid to criticize the California Fish & Game Commission when necessary, but he always tried to turn his opponents into friends. He didn't have a mean bone in his body.

Randy was one of those all-American strivers who attended seminars on salesmanship and negotiating skills back when he was a real estate broker and contractor. He was an avid reader and was constantly honing his skills to be a more effective and knowledgeable representative. He brought many disparate fishing groups together in consultation on important decisions, yet he was able to take charge when necessary and show leadership in times of crisis.

A few days before the ''Fish Fry for the RFA at Noyo Harbor,'' Randy's friend Jim Martin left a message on Randy's phone saying that he needed a pep talk because of some setbacks he had. A few minutes later he called back and said:

''Oh, Cowboy Up, Pardner.''

Jim busted out laughing. It was perfect Randy: short, sweet and to the point. It was all the pep talk he needed. Four words, and Randy set him straight.

Randy Fry was a warrior, a champion for the ocean and fishermen everywhere. He is sorely missed by his family, friends and colleagues.

## HONORING THE SWORMVILLE FIRE COMPANY AND THE DEDICATION OF THEIR NEW FIRE HALL

### HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. REYNOLDS. Mr. Speaker, it is with great pleasure that I rise today to recognize the Swormville Fire Company on the occasion of the dedication of their new fire hall.

The Swormville Fire Company has bravely served the citizens of East Amherst, NY, since its incorporation in 1918. The company was founded by a local resident named William Smith, and originally consisted of fifteen members. In 1937, the company completed work on a fire hall, the fire hall that would serve as headquarters until earlier this year.

Today, sixty-seven years after that fire hall was built, the company boasts over one hundred members and a top-notch volunteer firefighting operation—so it is fitting that the company should have a new, top-notch fire hall from which to run their operations. Working towards this end, we were able to secure federal funding of more than $130,000 for the company last June. Swormville's brand new fire hall, erected on the same site as their previous one, will serve both the company and the community well. This new, 16,500 square foot facility includes five apparatus bays, an emergency communications room, a training facility, a records storage room, and even a weight room.

Since 1918, the Swormville Fire Company has provided a vital service to the community. East Amherst would clearly not be what it is without them. We owe them a debt for gratitude for all they have done over the years, and wish them all the best as they continue to selflessly serve the community in their new fire hall.

Mr. Speaker, I ask that this Congress join me in recognizing the Swormville Fire Company and celebrating the dedication of their new fire hall.

## HONORING HURST MAYOR WILLIAM SOUDER

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. BURGESS. Mr. Speaker, I rise today to recognize Mr. William Souder, retiring Mayor of Hurst, Texas, for his outstanding service to the local community for the past 32 years.

Mayor Souder is a lifelong resident of Hurst and a direct-descendant of the city's founder, William L. Hurst. Like his relative, Mayor Souder has taken a decisive role in shaping the direction of the community for well over a quarter century.

Mr. Souder, a former banker, served as the first Postmaster to the city of Hurst. Prior to becoming Mayor he devoted 5 years serving as a city councilman. In 1980, Mr. Souder was elected Mayor of Hurst and has since served an impressive 12 consecutive terms.

As Mayor, Mr. William Souder has improved the lives of those living and working within the community. Under his leadership, 90 percent of the Hurst's facilities have been constructed or remodeled in a manner that allowed the city to incur zero debt. He has also played important roles in a whole host of progressive projects including the Northeast Mall renovation which has secured the city's financial security for many years into the future.

Mayor William Souder's positive impact has extended well beyond the immediate Hurst area through his involvement in the National League of Cities, Texas Municipal League, and U.S. Conference of Mayors.

It has been my distinguished honor to work alongside Mayor Souder for the improvement and development of Hurst, Texas. His leadership and kind heartedness will be missed. Bill, his wife Dodie, and the entire Souder family have my best wishes and prayers for the future.

## PERSONAL EXPLANATION

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. KENNEDY of Rhode Island. Mr. Speaker, on the evening of September 13 and the morning of September 14, I was attending the funeral services of Richard Langevin, the father of our colleague Congressman JAMES LANGEVIN, and was unable to vote on rollcall votes 441–450.

I respectfully request the opportunity to record my position on rollcall votes Nos. 441, 442, 443, 444, 445, 446, 447, 448, 449, and 450.

It was my intention to vote ''aye'' on rollcall vote No. 441, ''aye'' on rollcall vote No. 442, ''aye'' on rollcall vote No. 443, ''no'' on rollcall vote No. 444, ''no'' on rollcall vote No. 445, ''aye'' on rollcall vote No. 446, ''aye'' on rollcall vote No. 447, ''aye'' on rollcall vote No. 448, ''aye'' on rollcall vote No. 449, and ''no'' on rollcall vote No. 450.

## MOKELUMNE RIVER FEASIBILITY STUDY

SPEECH OF

### HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 22, 2004*

Mr. POMBO. Mr. Speaker, I rise to speak in favor of H.R. 4045. In San Joaquin County, California, water supplies are being depleted. The region suffers from highly significant groundwater overdraft and saline intrusion. This bill provides a much needed solution to this growing problem.

H.R. 4045 authorizes $3 million in federal funding to complete studies that will examine additional surface water supplies, and improve water supply reliability and environmental protection for the Bay-Delta Region.

The project's multi-year evaluation would involve the participation and cooperation of a wide range of regional stakeholders and would provide information important to statewide water resource and environmental protection efforts.

Areas that will be aided by this bill include Stockton, Lodi, Lockeford, Clements, Waterloo, Farmington, Linden, Wallace, Camp Seco and Valley Springs.

A clean, safe water supply is essential to sustain our growing communities. Mr. Speaker, I urge my colleagues to support this important legislation.

## NATIVE AMERICAN VETERANS HOME LOAN ACT OF 2004

### HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. HERSETH. Mr. Speaker, today I am introducing the Native American Veterans Home Loan Act of 2004. This Act will extend the Native American veteran housing loan pilot program until December 31, 2008.

The VA pilot program provides direct home loans to eligible Native American veterans who wish to purchase, construct, or improve a home on Native American trust lands. This extension will allow more veterans living on trust lands to take advantage of this important benefit, which is scheduled to expire on December 31, 2005.

Since its inception of the pilot program in 1992, the VA has made more than 400 direct loans to Native American veterans, which can be used to purchase, construct, or improve a home on Native American trust land. The VA direct loans are generally limited to either the cost of the home or $80,000, depending on which is less.

For a veteran to be able to participate in this program, the veteran's tribe must have entered into a Memorandum of Understanding, MOU, with the VA. To date, the VA has entered into MOUs with a total of 68 Native American tribes and Native Groups throughout the country. VA field personnel have conducted outreach with the following tribes in South Dakota: Cheyenne River Sioux, Crow Creek Sioux, Lower Brule, Oglala Lakota Sioux, Rosebud Sioux, Sisseton-Wahpeton Sioux, Standing Rock, and the Yankton Sioux.

It is an honor for me to introduce this legislation and help Native American veterans achieve home ownership. I urge my colleagues to support this important legislation.

## FOOD FINDERS 15TH ANNIVERSARY CELEBRATION

### HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise proudly today to congratulate Food Finders, a Long Beach community nonprofit that is dedicated to providing food for the impoverished and hungry people in our region.

Food Finders' specific mission is to offer an enhanced quality of life to those in need through a food rescue program. Volunteers collect and distribute food, along with other essential items, to missions, hospices, homeless shelters, treatment centers, senior centers and children's homes in both Los Angeles and Orange County, at no cost to the recipients. Food Finders provides approximately 42,000 meals a day through its services.

Food Finders is recognized in the City of Long Beach and throughout the region as a leading community-based organization. They are the link between donors, service agencies, and the people in need. Food Finders has inspired hundreds of merchants to donate food, which they then deliver free of charge to service agencies. This makes it possible for the agencies to run more effectively and therefore feed more people.

Food Finders is also a referral source for individuals, directing them to where they can receive help. Ninety-nine percent of food never comes through Food Finders' door. Volunteers pick up and deliver about 20,000 pounds of food to recipient agencies each day. The majority of Food Finders' efforts are spent on facilitating connections between donors and recipients. They operate 200 established delivery routes that are managed by 325 volunteers.

Food Finders was started in April of 1989 by Arlene Mercer, and was at one time operated out of her home. Food Finders has since grown from delivering 251,000 pounds of food in 1990 to delivering approximately 7,000,000 pounds of food in 2003. Throughout its existence, Food Finders has delivered over 30 million pounds of wholesome food. This is equal to approximately 35,000 meals per day, or over 11,000 people who receive three meals a day because of the dedication of Food Finders in improving their quality of life.

I look forward to working with Food Finders in the future for the betterment of our community.

## TRIBUTE TO ARNOLD COHEN AND MARTY RESNICK

### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to two leaders in the Baltimore Jewish Community. Arnold Cohen and Marty Resnick have been life-long friends who together and separately have worked to make our community and our world a better place.

Childhood friends since first grade, Arnold and Marty have a remarkable friendship that has lasted more than sixty years. As successful businessmen, they turned their attention to the benefit of others in Baltimore and Israel. They became leaders in the Mercantile Club, Israel Bond and The Cohen/Resnick Institute of the Diaspora Yeshiva in Jerusalem. Separately, Arnold devoted his efforts to Ner Tamid and Beth Tfiloh congregations, and Marty became active with Morgan State University.

On October 20, both will be honored by the Friends of Lubavitch as its 2004 Lamplighter Award recipients. In recent years, Arnold and Marty have turned their attention to the Lubavitch movement, helping Jews of all backgrounds learn more about their heritage. Both Arnold and Marty understand the importance of connections and of keeping Judaism alive for future generations.

I hope my colleagues in the U.S. House of Representatives will join me in thanking Arnold Cohen and Marty Resnick for their commitment and dedication to helping others. They understand that the world can be a better place through learning, knowledge and understanding.

## TRIBUTE TO DR. LEONARD H. SHAMBERGER

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. PAYNE. Mr. Speaker, I rise today to recognize and honor a distinguished member of my hometown of Newark, New Jersey, Dr. Leonard H. Shamberger, who will be retiring from the Pastorate of Emanuel Missionary Baptist Church on October 2, 2004.

Born in North Carolina in 1923, he honorably served this country as a Technical Sergeant in the U.S. Army, then pursued his education by attending the A&T State University in Greensboro, North Carolina, and later received his BA from the New York School of the Bible, an MA in Theology from the Bowles Bible Institute of Technicality, and a Doctorate of Divinity from Rankin's Theological Clinic.

Dr. Shamberger has established radio and prison ministries, the Mission to Haiti, the Food Pantry, Summer Vacation Bible School for children in our city, and many other ministries within the church and the surrounding community.

He has received many honors, including an Award for Religion for the Eugene and Barbara Byers Foundation, a Community Excellence Award, the Dr. Martin Luther King, Jr. Church Award, multiple Global Ministries Awards, the Municipal Council Resolution Award for 25 Years of Service from the Mayor's Office, and the First Family Award for 2003.

He is a Board Member of the Nellie Grier Senior Day Care Center, a Finance Committee member of the City Wide Revival Committee, and an Honorary Member of the Original Free Will Baptist Annual Conference of America. He is also a member of the General Baptist and the National Baptist Convention, USA, the Hampton University Ministers Conference, the Ordination Council of the New Hope Missionary Baptist Association, the North Jersey Committee of Black Churchmen, the Ministers Advisory Committee at the New Jersey Performing Arts Center, the Senior Citizen Partnership with Nelly Grier Adult Day Care, and the Baptist Ministers' Conference of Newark and Vicinity.

I am grateful for Dr. Shamberger's leadership in the community, and I value his commitment to meeting the needs of his brothers and sisters in Newark, the United States, and around the world.

Mr. Speaker, please join me in extending my thanks to Dr. Shamberger for his many years of pastoral ministry, and I invite my colleagues to join me in wishing him a restful and rewarding retirement, surrounded by the love of family, friends, and fellow believers.

## HONORING ROBERT HARMAN

### HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 27, 2004*

Mr. CAPITO. Mr. Speaker, I rise today to honor a great West Virginian, constituent and friend, Robert Harman. For the past forty years, Bob has served as the Chief Executive Officer and Administrator of Grant Memorial Hospital. His service makes him the longest-tenured hospital chief executive in our nation's history. Bob has worked tirelessly to ensure the citizens of Grant County, West Virginia have access to high quality health services. His shrewd fiscal management of the hospital has resulted in very few years where the hospital operated at a deficit; which is quite an accomplishment for an industry that has faced financial problems as a whole. He has often been on the leading edge of implementing new technologies to improve services and make the hospital more cost effective.

In addition to his service at Grant Memorial, Bob has been a leading advocate and expert on rural health issues. Over the past thirty years, Bob has served on numerous state and national committees, boards and task forces pertaining to the delivery of health care in rural areas. He has shared his experiences and advised members of the West Virginia Congressional delegation.

I am proud to call Bob a friend and fellow West Virginian and am honored to be able to share in this great accomplishment.

## PAYING TRIBUTE TO TOM CVAR

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a truly dedicated public servant from Pueblo, Colorado. Tom Cvar has served as the Public Works Director for the city of Pueblo for over 20 years, and I would like to join my colleagues here today in recognizing his hard work and commitment before this body of Congress and this Nation.

In 1969, Tom graduated from the University of Colorado, and after working in the private

sector was drafted into the Army. After fulfilling his military duty, Tom worked for two engineering firms before joining the Pueblo City Department of Public Works in 1980. Two years later he was appointed as the Director of Public Works.

As director, Tom was responsible for a staff of over 150 members, the oversight of 450 roads and 94 buildings, and the management of storm water and waste. In addition, he had oversight of an eighteen million dollar budget and final approval in all personnel, budget and organizational decisions. After his impressive stint at the department, Tom will be moving to Fort Collins, Colorado to work for a private engineering firm and to be closer to his family.

Mr. Speaker, it is a privilege to honor the service of Tom Cvar for his dedication to the city of Pueblo. His leadership will be missed, and I am proud to recognize him today before this body of Congress and this Nation. Thanks for your service, Tom, and good luck with all of your future endeavors.

## HONORING MYRTLE McKENNA

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. LOFGREN. Mr. Speaker, I rise to congratulate Myrtle McKenna on the occasion of her 100th birthday.

Myrtle McKenna was born on November 3, 1904 and resides in San Jose, California.

She was married to Vincent ''Mac'' McKenna for 39 years until his death. Mac served as President of UAW Local 560 for many years. Myrtle has also been active in the UAW. She is currently the Financial Secretary of the UAW Women's Auxiliary, and she is also in charge of preparing food for the retiree's monthly meetings. Myrtle has never missed a meeting and drove herself to the meetings until she was 94.

Myrtle has been an active member of the Transfiguration Catholic Church for the past 45 years and she continues to volunteer there on a regular basis. She is an avid gardener, and is well known for growing beautiful tomatoes.

I want to thank Myrtle McKenna for her many years of service to our community and congratulate her on this milestone birthday. The city of San Jose is truly fortunate to have such a dynamic and caring resident.

## HONORING MR. WILLIAM GRIGGS

### HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. KILPATRICK. Mr. Speaker, I rise today to honor one of the State of Michigan's longest serving public officials, Mr. William Griggs.

Born in Wyandotte on August 20, 1941, Bill is the youngest of four boys in the Griggs family. His father, Lloyd, was employed at National Steel, in Ecorse, Michigan, for 39 years.

In 1959, Bill was involved in a severe automobile accident which left him a paraplegic and confined to a wheelchair. He finished high school while recovering in the University of Michigan Hospital.

Graduating from Wayne State University with a bachelors degree in business administration in 1967, Bill went on to receive a Masters Degree in Recreation and Parks from Wayne State in 1975.

Bill is married to the former Judy Mierzewjewski and together they share the love of her children Lorrie McQuiston and Patrick McGrath. Lorrie resides in Trenton, MI and has two children, while Patrick resides in Chicago, IL and has four children.

Bill Griggs was elected City Clerk by the voters of Wyandotte in 1973 and has been reelected 13 times since—for a total of 31 years service to the citizens of Wyandotte, Michigan.

Bill was appointed to the Michigan Commission on the Employment of the Handicapped in 1976 by Governor William Milliken and served for three years. He was appointed, by Governor James Blanchard, to the Michigan Job Training Coordinating Council in 1985 and served for one year.

Bill represented the United States in eleven different International Wheelchair competitions, including those held in England, Israel, Argentina, Mexico, Canada and Peru:

Bill has been the President, Vice-President and Treasurer of the Michigan Wheelchair Athletic Committee and served as a member of the Board of Directors of the National Wheelchair Athletic Committee from 1971 to 1976.

Bill Griggs has received many honors over the years from numerous local clubs and organizations, including being named Outstanding Wheelchair Athletic of the year, based on a nationwide poll, in 1971; Outstanding Downriver Citizen by the Downriver Pennsylvania Club in 1974; Outstanding Young Man by the Wyandotte Jaycees in 1975; recipient of the Citation of Honor from the Veterans of Foreign Wars Auxiliary in 1975; Outstanding Government Official by the Michigan Rehabilitation Association in 1976; the 1986 Wyandotte Citizen of the Year award from the Wyandotte Service Clubs Council; elected to the Theodore Roosevelt High School Hall of Fame in 1991; inducted into the U.S. Wheelchair Sports Hall of Athletes with Disabilities Hall of Fame; and many more.

As you can see Mr. William Griggs is well deserving of our recognition for his many years of service to this community.

## PAYING TRIBUTE TO WILLIAM GAYL BUCKLES

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. McINNIS. Mr. Speaker, it is with a sad heart that I rise to pay tribute to the passing of William Buckles, a great man from my district. Bill Buckles, an anthropologist from Pueblo, Colorado recently passed away after a long battle with cancer. I am honored today to bring his contributions to the attention of this body of Congress and this nation.

Bill was born on May 25, 1931 in Parco, Wyoming. He joined the Marines in 1951, and after fighting in the Korean War, was discharged in 1954. Bill then attended the University of Colorado where he obtained his bachelor's, master's and doctoral degrees in anthropology. After traveling to Egypt under the employment of the Smithsonian Institution, Bill returned to Pueblo, Colorado, and became the first full-time anthropology professor at Southern Colorado State College. He spent twenty-seven years as a professor at SCSC before retiring in 1992.

Bill will be remembered for his dedication in finding the original El Pueblo trading post. The trading post on the then Mexican-American border served as a meeting place for trappers and traders from all across North America before it was destroyed and forgotten in 1854. Bill began searching for the site in the early eighties and after finding the historical site, he helped insure that it was included as part of the El Pueblo Historical Museum. Bill also made great contributions the Fryingpan-Arkansas Water project, which provides safe drinking water to tens of thousands of residents in southwest Colorado.

Mr. Speaker, Bill Buckles was a dedicated man that selflessly served his community and country, and I am honored to pay tribute to such a respected citizen. His lifetime of achievements is an incredible model for America's youth. My thoughts and prayers go out to his family during this time of bereavement.

## TRIBUTE TO LINDSAY TARPLEY

### HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to United States Olympic Women's Soccer player, Lindsay Tarpley, whose outstanding play helped the team bring home the gold in Athens. The grace and class that Lindsay and the entire women's soccer team demonstrated during their superb Olympic championship run is an inspiration to all of us.

In the 2004 Olympic gold medal game, millions of people around the world watched as Lindsay brilliantly scored the United States' first goal as the team went on to defeat Brazil 2–1. Her play throughout the tournament was marvelous and made the whole of southwest Michigan exceedingly proud.

Lindsay graduated from Portage Central High School in 2002 where she was twice an All-American, named the nation's top High School forward by Parade Magazine, was Michigan Gatorade Player of the Year, and led her team to win the MSHAA state title in 1999. Following her explosive career at Portage Central, Lindsay furthered her excellence at the University of North Carolina. Over the last two seasons at UNC, Lindsay continued in her dominance and after being named National Player of the Year by Soccer America in 2003, she was selected to the 2004 U.S. Olympic Team.

I could never adequately list or describe all of Lindsay's accomplishments on the soccer field, but perhaps her greatest accomplishment thus far is being a role-model for millions of youth players throughout our country. As a National and Olympic star, Lindsay has shown through her dedicated play and elegance in success, the true meaning of being a champion. Just like her own role model, Mia Hamm, Lindsay is a role model for countless girls throughout southwest Michigan and our nation as a whole.

On behalf of the Sixth District of Michigan, I would like to wish a very speedy recovery to

Lindsay on her recent injury that she endured while playing at UNC. I extend my very best wishes to Lindsay's continued success on and off the field and congratulations on her Gold medal in the 2004 Olympics.

## HONORING SERVICE EMPLOYEES INTERNATIONAL UNION 250

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor Service Employees International Union (SEIU) 250 for 70 years of invaluable service to the community.

SEIU 250 was chartered on September 13, 1934. On that date, the American Federation of Labor certified the local as the country's first health care union, which grew out of the struggle of a group of service workers who united to fight for better wages at San Francisco General Hospital. Since that time, the members of SEIU 250 have worked tirelessly to improve working conditions for all service employees in the health care profession, and in doing so, have dramatically improved the state of health care in California and across the country.

During the 70 years since its founding, SEIU 250 has achieved a number of remarkable milestones. In 1941, the local signed its first contract with the San Francisco Hospital Conference, an agreement that represented employees at eleven hospitals. A decade later, SEIU 250 signed its first contract with Kaiser Permanente, a partnership that continues today and represents over 20,000 caregivers. The local would go on to work even harder to meet the needs of its members by incorporating into its structure four additional divisions in the areas of homecare, convalescent care, hospitals and emergency medical services. In the decades that followed, SEIU 250's reach grew to encompass eleven districts spanning Northern California, with a membership of over 100,000.

As the local's membership has grown, so has the impact of its relentless efforts to promote just and equitable working conditions for health care employees. In 1998, SEIU 250 members created a Patient Healthcare Worker Defense Fund, a nonpartisan effort with the objective of giving health care workers a more powerful voice in government to advocate for issues such as universal access to quality care, a patients' bill of rights, nursing home reform, and strong enforcement of workplace health and safety laws. SEIU 250 has also contributed enormously to the community through initiatives such as the establishment of the Shirley Ware Education Center, which opened in 1999 to provide needed training for current health care workers and to train new workers in response to widespread health care staffing shortages.

On October 1, 2004, SEIU 250 will be celebrating its 70th anniversary in San Francisco, California. I would like to mark this occasion by commending this organization for the exceptional service it has provided to the community not only in its capacity as an advocate of health care workers' rights, but also for its consistent efforts to improve the nation's health care system. By remaining committed to the goals of safe and fair working conditions for caregivers, SEIU has contributed immeasurably not only to the well-being of its members, but also to the quality of health care they are subsequently able to provide. I salute and congratulate SEIU 250 for 70 remarkable years of service.

## IN MEMORY OF SGT. THOMAS CHAD ROSENBAUM

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. ROSS. Mr. Speaker, I rise today to recognize the life and courageous spirit of U.S. Army Sgt. Thomas Chad Rosenbaum of Hope, AR. Sgt. Rosenbaum, just 25 years old, was killed in the line of duty in Iraq on September 18, 2004. I am deeply saddened by this tragedy. I wish to recognize his life and achievements.

Sgt. Rosenbaum attended my alma mater, Hope High School, where he participated in a number of extracurricular activities. He was a member of the Bobcat football team, the golf team, weight lifting team, Key Club, Future Business Leaders of America and took part in the FFA rodeo. After graduating from Hope High School in 1997, Sgt. Rosenbaum enlisted in the U.S. Army and was assigned to the 4th Battalion, 5th Air Defense Artillery, 1st Cavalry Division in Fort Hood, Texas.

Sgt. Rosenbaum was stationed in Iraq since March where he worked as a chemical specialist and trained Iraqis in the use of firearms. His exemplary service and dedication to our country did not go unnoticed. His long list of distinguished medals includes: the Bronze Star Medal, a Purple Heart Medal, the Army Commendation Medal, the Army Achievement Medal, two Good Conduct Medals, the National Defense Service Medal, the Global War on Terrorism Expeditionary Medal, the Global War on Terrorism Service Medal, two NCO Professional Medals, the Army Service Ribbon, the master parachutist Badge, the Air Assault Badge, the Weapon Qualification Badge, and the French Parachutist Wings.

America will be forever grateful for Sgt. Rosenbaum's service to our great country. He gave his life to serve our country and will forever be remembered as a terrific father, courageous son, and a hero. My deepest condolences go out to his son, Ty; his parents, Jackie and Donna Rosenbaum; and his brother, Zane. I know Sgt. Rosenbaum was proud of his service to the U.S. Army and to our country. He will be missed by his family, fellow soldiers, and all those who knew and counted him as a friend. I will continue to keep Sgt. Rosenbaum and his family in my thoughts and prayers.

## PAYING TRIBUTE TO THE TOWN OF RICO

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. McINNIS. Mr. Speaker, it is an honor to recognize the 125th anniversary of the incorporation of the Town of Rico, Colorado. This year marks the celebration of its Quasquicentennial, a rare and distinguished achievement. The story of Rico is one of a successful, booming mining town that thrived around the Rio Grande Southern Railroad route. As the town's residents celebrate their one hundred and twenty-fifth year anniversary, I would like to join my colleagues here today, before this body of Congress and this nation, in recognizing this impressive milestone.

Rico is Spanish for "rich", and the rich culture and history of Rico is one of its greatest charms. The wealth of Rico derives from its long history of mining. Trappers first came to the valley in 1832 to catch beaver and other fur bearing animals. Gold was discovered in 1866 by a Texan named Colonel Nash and fellow prospectors Sheldon Shafer and Joseph Fearheiler of Montana.

Rico reached its apex in 1892 with a population of five thousand, supporting several saloons, a few churches, a couple of newspapers, a theater and the Rico State Bank. In 1893, there was a silver panic that left only 811 people in Rico, but the town recovered and the mining industry rebounded in 1926. From 1953 to 1971, the mining industry then shifted its focus from silver to lead and zinc ore. Today Rico is unparalleled in its beautiful mountain scenery and outdoor recreation opportunities that include both fishing and hunting.

Mr. Speaker, after one hundred and twenty-five years, Rico, Colorado continues to experience success as a tight-knit community. The social institutions and economic infrastructure account for the town's longevity. Our nation was built upon the strong foundation of small communities like Rico. I congratulate the town of Rico, Colorado for this important anniversary and wish the community the best in the future.

## HONORING CENTER FOR TRAINING AND CAREERS' WOMEN EMPOWERED TO MOVE AHEAD PROGRAM

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. LOFGREN. Mr. Speaker, I rise today to commend the Center for Training and Careers (CTC) of San Jose for establishing the Women Empowered to Move Ahead (WEMA) collaborative program.

WEMA was created by CTC when they were approached by Pacific Gas & Electric (PG&E) to help train women for the Utility Worker and Apprentice Lineman divisions. At that time PG&E did not have any women in those positions. With CTC's extensive experience designing non-traditional programs for under-employed and unemployed women, a program was developed that focused the curriculum on the employment process of PG&E.

Students received 325 hours of instruction over a 13-week period, and special support services were provided for the participants. WEMA also met the requirements of the Silicon Valley Workforce Investment Network (SVWIN) that emphasize programs that respond to the special needs of the employer community. SVWIN committed Workforce Investment Act funds and provided referrals through its One Stop Employment Centers.

I am proud of the caring staff whose dedication has built the WEMA program. Because of their hard work, many women in San Jose will have a better and more optimistic future. I thank the CTC for their valuable service to our community.

## HONORING MR. ANDREW SWIECKI

### HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. KILPATRICK. Mr. Speaker, I rise today to honor one of the State of Michigan's longest serving public officials Mr. Andrew Swiecki.

Andy was born on August 2, 1939 in the city of Wyandotte, the forth of five children of Andrew and Sophia Swiecki. He attended school in Wyandotte, and after graduating from Mt. Carmel High School he attended the University of Detroit and graduated with a degree in Industrial Relations in 1963.

He is married to the former Pat Prosniewski, and they are the parents of three children: Andrew Kenneth, Jeffrey Allen and Susan Nicole Swiecki-Radel. Andy, and his wife Pat, have three grandchildren and are expecting a fourth grandchild in 2005.

First elected to Wyandotte's City Council in 1967, Andy served on the Council for 12 years, being elected to six 2-year terms. He was then elected Wyandotte's City Treasurer in 1979 and has been re-elected to that position 10 times. Andy has served the citizens of Wyandotte for 37 years.

He is a member in good standing of many clubs and professional organizations, including: Wyandotte Goodfellows; Downriver YMCA Board; Wayne County Treasurers Association; Downriver Community Conference; Southeast Michigan Community Alliance; Municipal Treasures USA/Canada Association; Chairman of Wyandotte Employees Retirement Commission; the Polish Legion of American Veterans; St. Stanislaus Kostka Club 30; Our Lady of Mt. Carmel Church Ushers Club and Holy Name Society; Polish Roman Catholic Union; Knights of Columbus; and many others.

Andy was named Citizen of the Year by Wyandotte Service Clubs in 1990 and was honored as Volunteer of the Year by the YMCA in 2003.

As you can see Mr. Andrew Swiecki is well deserving of our recognition for his many years of service to his community.

## PLEDGE PROTECTION ACT OF 2004

SPEECH OF

### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 23, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance:

Mr. MOORE. Mr. Chairman, I rise today in opposition to H.R. 2028, the Pledge Protection Act of 2003.

The American flag is a symbol of liberty and justice, of freedom of speech and expression, as well as the other freedoms we cherish which are guaranteed in the Bill of Rights. But even more important than the symbol are the ideals and principles that the symbol represents. I believe the best way to honor the American flag is not to wrap ourselves in it, but to respect and honor the values for which it stands. That our nation can tolerate disrespect for our flag is proof of the enduring strength of our nation.

As a veteran who served in the U.S. Army and Army Reserves, I know how deeply our veterans love and revere our flag. I share those feelings for our flag and all that it represents.

Our democracy has withstood many tests over time, and has been strengthened as a result. There is no more important protection provided by the First Amendment than its protection of political speech and expression.

In a letter to Senator PATRICK LEAHY of Vermont dated May 18, 1999, now-Secretary of State (then General) Colin L. Powell wrote, to express his concerns regarding a constitutional amendment banning flag burning, "the First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away."

I agree wholeheartedly with Secretary Powell's statement, and believe it applies here as well. The Pledge of Allegiance is an invaluable part of our national heritage, but we must also bear in mind the immeasurable significance of the First Amendment to the United States Constitution.

Finally, I have deep concerns about current efforts to deny the federal courts, including the Supreme Court, the ability to review the constitutionality of our federal laws. I believe preserving our three-branch system of government is in our nation's best interest.

## PAYING TRIBUTE TO JAMES SULLIVAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to James Sullivan and thank him for his exceptional contributions to his community and the State of Colorado as a Douglas County Commissioner. A county commissioner since 1989, James is a dedicated public servant and leader in his community and I am honored to recognize his accomplishments before this body of Congress and this Nation today.

James is the president of the Douglas County Water Resource Authority, where he dedicates his time to preserving underground water supplies and building support for the use of renewable water resources. He is a past president of Colorado Counties, Inc., an active participant in the National Association of Counties, and has served as a commissioner on the national panel for the Joint Center for Sustainable Communities. James is also the first commissioner in 22 years to be placed on the Douglas County Fair Board. Some of the additional commissions and boards he served on include: the Board of Trustees for the Southeast Business Partnership, Colorado Governor Bill Owens' Commission on Saving Open Spaces, and the E–470 Public Highway Authority Board.

In 2002, Governor Owens appointed James to the Colorado Civil Rights Commission, where he will serve a 4-year term representing local government. In addition, the Governor also appointed him to the Great Outdoors Colorado Trust Fund Board of Directors, which uses State lottery proceeds to buy and improve recreation areas, parks, and wildlife habitats in Colorado.

Mr. Speaker, it is clear that James Sullivan has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as a Douglas County Commissioner. I am honored to bring his hard work and commitment to the attention of this body of Congress and this Nation today. Thank you for all your dedication and service, James. I wish you all the best in your future endeavors.

## INTRODUCTION OF RESOLUTION COMMENDING NATIONAL GEOGRAPHIC BEE 2004 WINNER ANDREW WOJTANIK

### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. MOORE. Mr. Speaker, on behalf of his proud neighbors in Kansas' Third Congressional District, and particularly on behalf of the students and teachers at Lakewood Middle School in Overland Park, Kansas, I am honored today to introduce a resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee. I have been joined in this effort by Representatives JIM RYUN and JERRY MORAN of Kansas, and by Representatives MAJOR OWENS, EARL BLUMENAUER, and MAX BURNS.

On May 26, 2004, Andrew won the 16th Annual National Geographic Bee when he correctly answered a question about the Khyber Pass in Northern Pakistan.

While Andrew's comprehensive knowledge of geography is an inspiration to students everywhere, studies suggest that most of Andrew's peers would be unable to find Pakistan on a map, let alone be aware of the significance of the Khyber Pass. Only 13 percent of young adults in the United States between the ages of 18 and 24 can correctly identify Iraq on a map of Asia and the Middle East. Year after year, American students are consistently outperformed in geographic literacy by students in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada.

The truth is that many students in the United States receive only a minimal amount of geography education during their educational careers. In 2001, Congress acknowledged the importance of including geography education in school curriculums when it designated geography as a "core subject" in the No Child Left Behind Act; yet, geography remains the only core subject identified in that act without a federal program designed to improve educational performance.

Congress must honor its commitment to the children of the United States and address the

need for improved geography education. As we have recognized in other areas of education, the only way to truly improve the educational system at a student-level is to help schools use the most effective teaching techniques to increase student knowledge and understanding. Geography education is no exception.

The National Geographic Society Alliance Program is an excellent example of current efforts to improve geography education at the state and local level. Alliances around the country provide teachers with intensive professional development opportunities in geography education, cultivating opportunities for teachers in state-level chapters to collaborate on geography education efforts and to participate in NGS professional development programs. And the success of the National Geographic Society Alliance Program is seen through the achievements of its students—students of teachers who have been involved in the Alliance program have statistically, higher levels of geographic literacy achievement than other students. Promoting proven, effective teaching techniques, such as those developed through the National Geographic Society Alliance Program, will be essential if Congress is to successfully foster greater geographic literacy among American students.

If we are to continue our efforts to develop the most educated citizenry in the world, we must closely examine how we educate our youngest citizens about the world. This resolution is the first step to refocusing attention on the need for geographic literacy and its important role in our children's education.

It is my hope that passage of this resolution will do more than just applaud Andrew Wojtanik's mastery of geography skills—this resolution will reaffirm Congress's commitment to geography and recognize a national public-private partnership dedicated to improving geographic literacy among American students. For these reasons, I urge my colleagues to join with me in sponsoring this important resolution.

## TRIBUTE TO JIM GREGART

### HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Kalamazoo County Prosecuting Attorney Jim Gregart, who is approaching the end of a long and distinguished career of public service. A dedicated and committed individual, Jim has served the communities and families of southwest Michigan for the last 35 years. Through his leadership and enthusiasm to his profession, Jim has helped to make our corner of Michigan an even better and safer place to live and grow.

Since coming to the city of Kalamazoo, Michigan, Jim has been widely known for his extensive charity and dedication to local individuals and the community as a whole. Over his inspiring career, Jim has been devoted to improving the lives of countless individuals who had the fortune of crossing his path. The area is forever in his debt. There is no question that Jim's ardor for the law and betterment of society will be greatly missed.

Jim has been involved in many faucets of our local and State community. His contribution to the improvement to our way of life has been immense. Whether he is dedicating his time and energy to the Kalamazoo Red Cross, Muscular Dystrophy Association, Boys and Girls Club, American Lung Association or Kalamazoo County Humane Society, Jim's work has always been inspirational.

Many words come to mind as one reflects upon Jim's public service to our community. He is selfless, generous, giving, caring, humble, the list goes on. His integrity is impeccable and has long been known as being the standard of fairness and equality. On behalf of the Sixth District of Michigan, I wish Jim and his family all the best in retirement—we are all better off because of his service.

## HONORING AMEY STONE

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary contributions of Amey Stone, Trustee of the Peralta Community College District, on the occasion of her retirement from 17 years of dedicated service.

Amey has long been active in the areas of government affairs and civic leadership in the East Bay. A resident of Alameda, she has served the city not only as a Planning Commissioner, but also as City Councilwoman and Vice Mayor. Furthermore, she has served by Presidential appointment on a number of national committees specific to women's needs and affairs. In addition to her role as a leader in Alameda County, Amey has also been active in civic affairs in several other countries. Having lived on three continents throughout her lifetime, Amey has been recognized by the Presidents of France as well as Turkey for the contributions she made while living in those countries.

Amey has also led a long and distinguished career as a Trustee of the Peralta Community College District. Elected to her first 4-year term in 1987, Amey has consistently demonstrated her commitment to the improvement of the state of higher education in California. She served for many years not only on the California Community College Trustees' Education and Legislative Committees, but was also a member of the Alameda County School-to-Career Taskforce. Held in high regard by the students in her district, Amey has always been known for her receptive and respectful approach to student concerns and issues. She tirelessly served the District in this capacity for 17 years until her retirement on August 31, 2004.

On September 28, 2004, Amey will be honored in Oakland, California, by the Board of Trustees of the Peralta Community College District. I would like to take this opportunity to commend her exceptional contributions not only to the advancement of higher education in California, but also for her role as a leader in the areas of women's issues and local government. By remaining active in and dedicated to these important areas, Amey has contributed immeasurably to Alameda County and the East Bay, and the 9th Congressional District salutes and congratulates her for her many years of invaluable service.

## PAYING TRIBUTE TO JOHN SANKO

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. McINNIS. Mr. Speaker, it is a privilege to rise and pay tribute to journalist John Sanko and thank him for his contributions to Colorado as a political correspondent for the Rocky Mountain News. The level of integrity and honesty that John has shown throughout his 41 years of reporting on Colorado politics is truly exceptional and worthy of recognition by this body of Congress. As John moves on to retirement, let it be known that the citizens of Colorado and I are eternally grateful for the outstanding work he has done covering Colorado politics.

John will be remembered most for the integrity with which he performed his job. He spent 21 years with United Press International before joining the Rocky Mountain News. During his 41 years covering Colorado politics from the Capitol dome, John developed a reputation as top-notch reporter. He was known for his hard work ethic, having never missed a day of work, never filing for overtime, and never taking vacation without some arm-twisting. He was an extremely productive journalist, submitting an average of two stories every workday. John simply loved being a journalist and his presence will be sorely missed.

Mr. Speaker, it is a privilege to commend journalist John Sanko for his unwavering commitment to the citizens of Colorado. The enthusiasm he brought to the job, and the contributions he made to the field of journalism, will never be forgotten. It is an honor to recognize him today before this body of Congress and this Nation. I have personally known John for many years, respect him tremendously, and will dearly miss him. Thanks for your service, John. I wish you the very best in your retirement.

## PERSONAL EXPLANATION

### HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. BISHOP of Georgia. Mr. Speaker, I regret that I was unavoidably detained from September 20–24, 2004, due to the death of my mother, Mrs. Minnie S. Bishop. Although I received an excused absence during this period, I missed rollcall votes 457–472. Had I been here I'd have voted as follows:

Roll Nos. 457—"aye"; 458—"aye"; 459—"no"; 460—"aye"; 461—"aye"; 462—"aye"; 463—"aye"; 464—"aye"; 465—"aye"; 466—"no"; 467—"yea"; 468—"yea"; 469—"yea"; 470—"no"; 471—"no"; and 472—"aye."

## THE EMERGENCY LOAN ABUSE PREVENTION ACT OF 2004

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. VAN HOLLEN. Mr. Speaker, I am pleased to join the Ranking Member of the

Education and Workforce Committee, Mr. MILLER, and the Ranking Member of the 21st Century Competitiveness Subcommittee, Mr. KILDEE, in introducing the Emergency Loan Abuse Prevention Act of 2004.

A short time ago, this body voted 413–3 to stop the Department of Education from spending any of its fiscal year 2005 Appropriation to perpetuate the so-called "9.5 percent loophole" in the Federal student loan program. This antiquated and indefensible subsidy guarantees lenders a whopping 9.5 percent return on garden variety student loans while costing taxpayers nearly $1 billion this year. That's $1 billion that should be going to students and families trying to afford college—not to already profitable financial institutions.

The Emergency Loan Abuse Prevention Act of 2004 picks up where the Kildee-Van Hollen Labor-HHS Appropriations amendment left off by putting an end to the 9.5 percent loophole—permanently. Moreover, it directs the savings from this needed reform to the woefully underfunded Pell Grant program, which has lost half its purchasing power over the last 20 years. It's a win for taxpayers who expect us to spend their money wisely, and it's a win for students who—in this era of double digit tuition increases—deserve all the help we can give them as they pursue their dreams of a college education.

Mr. Speaker, in closing, I'd like to submit a copy of a recent Washington Post editorial on this issue for the record and note that the Government Accountability Office (GAO) yesterday released its final report detailing the urgent need to close this loophole immediately. I ask all of my colleagues on both sides of the aisle to work with us in the same bipartisan fashion as this House spoke a few weeks ago to pass the Emergency Loan Abuse Prevention Act of 2004 without delay. We have an obligation to our taxpayers and students to ensure that Federal education dollars are spent where they are needed most.

(From the Washington Post, Sept. 10, 2004)

STUDENT LOAN SCANDAL

There are bureaucratic errors, there is congressional negligence—and then there are bureaucratic errors and congressional negligence on a scale so vast that it is hard to believe they can be accidental. The hundreds of millions of dollars in unnecessary government payments to the student loan industry in the past 18 months amount to such a scandal. The loans in question, established in 1980, are guaranteed by the government at 9.5 percent. Yet most students are paying interest rates of 3.5 percent or less. The difference—all taxpayers' money—is pure profit for the companies that have taken advantage of a loophole in the law.

According to a recent report by the Institute for College Access and Success, a nonprofit education think tank, Congress had actually intended to end in 1993 the 9.5 percent loan guarantee, one of many programs that provide incentives for institutions to lend to students. In May 2003, one company, Nelnet Inc., wrote to the Education Department to confirm its intention to expand its holdings of old loans with the 9.5 percent interest rate. Nelnet received no answer from the department for a year, during which time the department continued paying the company. In June of this year, the department replied inconclusively—at which point the company's stock price climbed 20 percent. Although Nelnet is the largest holder of loans guaranteed at 9.5 percent—and its holdings of such loans have increased by 818 percent since January 2003—it is only one of many such lenders. According to a preliminary Government Accountability Office report, commissioned by Representatives Chris Van Hollen (D–Md.) and Dale E. Kildee (D–Mich.), 37 lenders receive payments for loans with guaranteed interest rates of 9.5 percent, at a government cost of $1 billion annually, and the volume of such loans is rising.

Why wasn't the loophole shut long ago? Education Department officials argue strenuously that only a two-year regulatory process could have done so, and they didn't initiate one, they say, because they thought Congress would deal with it. Congressional Republicans say they expected to deal with the problem in a comprehensive higher education bill, but that has failed to pass (and in any case the proposed language would not have ended all the payments). Yet, other solutions could have been found: In the wake of revelations about the scale of the payments, the House yesterday passed an amendment to an appropriations bill, offered by Mr. Van Hollen and Mr. Kildee, that would close the loophole completely, albeit temporarily. (Of course, there is no guarantee it will become law.) And one former Education Department general counsel has written to the secretary of education, Roderick R. Paige, arguing that the loophole could have been closed immediately if officials had wished to do so.

There could be other explanations for their reluctance. One is that the president of Nelnet, Don R. Bouc—who has called for the loophole to be shut and the money to be better used—is well-connected enough to have been appointed to Mr. Paige's advisory committee on student financial assistance. Here is another: According to a report in the Chronicle of Higher Education, Nelnet is the second-largest contributor to congressional campaigns in the student loan industry, beaten only by industry giant Sallie Mae. Over the past 18 months, the student loan industry has contributed about $750,000 to the 49 members of the House Committee on Education and the Workforce, of which $136,000 has gone to the committee chairman, Representative John A. Boehner (R–Ohio), and $175,000 to Representative Howard P. "Buck" McKeon (R–Calif.), chairman of the subcommittee on higher education. Mr. Boehner's spokesman vehemently denies any connection between the contributions and the issue and maintains that the committee's bill would have fixed the problem, which was mentioned in the president's latest budget. Still, it is difficult to understand, given the sums involved, why neither Mr. Paige nor Congress made this a higher priority.

For nearly a decade we have argued that Congress should reduce subsidies for banks that lend to students, and instead expand the direct-loan program, which provides about a quarter of student aid—or else reform the system to make it harder to manipulate. This scandal provides an excellent reason to look again at these questions.

## PERSONAL EXPLANATION

### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. GREEN of Texas. Mr. Speaker, on Thursday evening, September 23, 2004, I was unable to be present for the final three votes of the day, rollcall votes No. 470, No. 471, and No. 472, because I returned to my Congressional District in order to assist my constituents with the potential impact of Tropical Storm Ivan's imminent landfall on the Southeast Texas Coast.

On rollcall vote No. 470, to Order the Previous Question, I would have voted "no," so that we could fix the underlying bill (H.R. 1308) to pay for the tax cuts and avoid increasing the deficit. In addition, the bill should fix the combat pay problem for military families that denies the child tax credit and the earned income tax credit.

On rollcall vote No. 471, on H. Res. 794, the rule waiving points of order against the conference report to accompany the bill (H.R. 1308), I would have voted "no," due to the increase in the deficit and the failure of the bill to address military families.

On rollcall vote No. 472, on the conference report accompanying H.R. 1308, I would have voted "yea," because the legislation does provide significant tax relief to middle class families and provides important tax incentives to businesses. However, these tax cuts should have been paid for, and military families should have been included.

## PAYING TRIBUTE TO RICHARD SHEEHAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Richard Sheehan and thank him for his exceptional contributions to his community and the State of Colorado as a Jefferson County Commissioner. A commissioner since 1999, Richard is a dedicated public servant and leader in his community and I am honored to recognize his accomplishments before this body of Congress and this Nation today.

As a resident of South Jeffco, Richard has a long history of educational and vocational training. He has earned his Masters in Business Administration, his Certified Public Accountant's license, national certification as a Public Finance Officer and his teacher's certification in Social Studies. Richard's rigorous academic background and passion for public service led him to serve in the Colorado State Auditor's office and teach social studies at Aurora Public Schools. Additionally Richard served as a financial officer for Arapahoe County and taught financial reporting in the MBA program at Regis University. In the private sector, Richard has been employed as a financial analyst in the corporate offices of the Pace Membership Warehouse. In 1999, Richard was elected as a Commissioner for Jefferson County, and he has proven himself to be a great asset to the citizens he represents. This year Richard will additionally serve as the Chairman Pro Tem of the Board and the Law Enforcement Authority.

In addition to his work as a county commissioner, Richard also serves as the treasurer of Colorado Counties Inc., sits on the Denver Regional Council of Governments, the Jefferson Economic Council, and the State's Human Services Board. What little spare time that he has remaining is devoted to volunteer work for

organizations such as the Governor's Place, and the Colorado Energy Science Center which promotes the use of renewable energy sources.

Mr. Speaker, it is clear that Richard Sheehan has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as a Jefferson County Commissioner. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Richard, and I wish you all the best in your future endeavors.

## TRIBUTE TO LCPL STEVEN CHARLES TYLER CATES OF MT. JULIET, TN, WHO GAVE HIS LIFE IN SERVICE TO HIS NATION

### HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. COOPER. Mr. Speaker, the tragic events of September 11, 2001 will never in the history of our nation be forgotten. While much of the country stood paralyzed by shock and grief, the horrifying events of that day were, for others, a call to action. One of those who heeded this call was LCpl Steven Charles Tyler Cates of Mt. Juliet, TN. Just eight days after September 11th, Tyler Cates walked into his local military recruiting office and said he was there to serve. He became a Marine.

Long before that day, Tyler's belief in service to others had marked his life. An Eagle Scout, his family said he had always reached out to those around him when they needed some support. "He was a true Boy Scout," his stepfather, Philip Shaw told a reporter from the Tennessean last week. "He was trustworthy; he'd go an extra mile for his friends."

I am honored today to pay tribute to the extraordinary bravery and patriotism of this selfless young man. Lance Corporal Cates died in service to his country in Western Iraq last week. He was fighting to help those he recognized as less fortunate than himself, fighting to bring the freedom and liberty that he so treasured to others so far from his home in Middle Tennessee.

His mother said it was simply his nature to serve. When Tyler told her he had joined the Marines, Patricia Shaw said she was worried but not surprised. "He said, 'I need to do this, Mom,'" Mrs. Shaw said. "That boy brought such patriotism into my life like no one else. He touched everybody he came in contact with because of his charisma. He had a good heart."

His father, Steve Cates, described Tyler as his pal, his best friend and an inspiring patriot. "He loved America. He wanted to defend his country and wanted to go over and give them what we have."

Today, Mr. Speaker, I rise here in the U.S. Capitol—the symbol of freedom to so many around the world—to salute Lance Corporal Cates for his dedication to all this building and this country stand for. Even standing here, in this great chamber, nothing we say or do can adequately thank Tyler and his family for the sacrifice he made. My heart goes out to his wife Lisa, his mother and stepfather, his father, brother, three sisters and grandparents. He will be missed by each of them, as well as his many friends in Mt. Juliet and Middle Tennessee. Yet his sacrifice and love of country will not be forgotten. It will live on, inspiring us to recognize and protect the liberty that Tyler believed in, and each of us holds so dear.

## IN RECOGNITION OF DAVID W. FLEMING

### HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to David W. Fleming for his dedicated contributions to improving the economy, education, and health care for the residents of the San Fernando Valley. David Fleming, an attorney who has specialized in corporate law for over forty years, provides leadership which is instrumental to many organizations committed to improving the economic development of the San Fernando Valley.

Vital centers of economic activity benefit from David Fleming's hard work. He is the Chairman of the Economic Alliance of the San Fernando Valley, an influential business and industry collective formed after the Northridge earthquake, which brings investors to the San Fernando Valley in order to grow and sustain the economic base and improve the quality of life for all Valley residents. He is also a director of the Los Angeles Area Chamber of Commerce, an organization of 1,350 businesses, which helps small businesses grow and works for the prosperity for the Los Angeles region. Most recently, David Fleming completed a two year term as chairman of the Los Angeles Economic Development Corporation, the largest economic development organization in America.

David Fleming has worked to improve the region's infrastructure and to promote commercial development having served as the appointed Vice-chairman of the California Transportation Commission for three years, during which time he chaired the Public Transit Committee. Even the entertainment industry benefits from his expertise. He serves on the Board of the Technology Council of the Motion Picture and Television Industry.

David Fleming is an advocate for the future of San Fernando Valley children and the health of all Valley residents. He is a founding member and trustee of the Children's Planning Council of Los Angeles County, a unique collaboration of public and private sector leaders working hard to improve the integration, coordination, and accessibility of health and human services for children. He also serves as Chairman of the Board of Valley Presbyterian Hospital, the largest acute care hospital in the central San Fernando Valley. The 290–bed facility offers leading-edge technology and medical expertise in maternal and child health, cardiac care, orthopedics, and critical care services. Many Valley children benefit from free immunizations, health screenings, and seniors are able to receive free flu shots each fall at the hospital.

Local government also has benefited from David Fleming's knowledge and volunteerism. In 1997, he helped implement the city's charter reform movement. Two years later, the reform was overwhelmingly approved by voters, making it the first major city charter reform movement in 75 years. He also served on the City of Los Angeles Ethics Commission for two years from 2001 to 2002.

David Fleming's strong work ethic has been acknowledged by many, including President George W. Bush. In 2003, President Bush appointed him to the prestigious James Madison Foundation in Washington D.C., where he serves as one of only two private citizens appointed to the foundation.

Throughout his career, David Fleming dedicated over 60,000 hours in leadership roles for various non-profit organizations. Many organizations have recognized and honored David Fleming for his wide range of civic contributions including the American Jewish Committee, the Valley Bar Association, the Anti-Defamation League, the University of California at Los Angeles, the Interfaith Council, the California Junior Chamber of Commerce and the Jewish National Fund, as well as the City and County of Los Angeles, the California State Legislature and three California Governors. He was also the 1991 recipient of the Fernando Award, an exclusive honor awarded to individuals who have exemplified leadership, volunteerism and dedication.

David Fleming is a philanthropist who gives not only his time, but along with his wife Jean, has contributed millions of dollars to many Southern California charities including key donations to Valley Presbyterian Hospital and the University of California at Los Angeles Law Library.

Mr. Speaker, please join me in recognizing David W. Fleming, an altruistic man who has devoted much of his life to improving the well-being of the citizens of the San Fernando Valley.

## PERSONAL EXPLANATION

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. MILLER of Florida. Mr. Speaker, I would like to offer a personal explanation of the reason I missed rollcall votes Nos. 457–472 on September 21, 2004, through September 24, 2004. These were amendment votes on H.R. 5025—Transportation and Treasury Appropriations Bill, H.R. 2028—The Pledge Protection Act, H.R. 1057—The Adoption Tax Relief Guarantee Act and H.R. 1308—The Conference Report on the All-American Tax Relief Act. At the time these votes were called, I was in my Congressional District in Pensacola, Florida, helping my constituents with the aftermath of Hurricane Ivan.

I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted rollcall vote No. 457, on the Van Hollen Amendment, "nay"; rollcall vote No. 458, on the Sanders Amendment, "nay"; rollcall vote No. 459, on the Norton Amendment, "nay"; rollcall vote No. 460, on the Davis of Florida Amendment, "nay"; rollcall vote No. 461, on the Rangel Amendment, "nay"; rollcall vote No. 462, on the Olver Amendment, "nay"; rollcall vote No. 463, on the Stenholm Amendment, "nay"; rollcall vote No. 464, on the Motion to Recommit H.R. 5025, "nay"; rollcall vote No. 465, on final passage of H.R. 5025, the Transportation Treasury Appropriations Bill, "nay"; rollcall

vote No. 466, on the Watt Amendment to the Pledge Protection Act, ''nay''; rollcall vote No. 467, on final passage of the Pledge Protection Act, ''aye''; rollcall vote No. 468, on the Adoption Tax Guarantee Relief Act, ''aye''; rollcall vote No. 469, on Ordering the Previous Question on H. Res. 785, ''aye''; rollcall vote No. 470, on Ordering the Previous Question on the Conference Report for the All American Tax Relief Act, ''aye''; rollcall vote No. 471, on Agreeing to the Resolution, ''aye''; and rollcall vote No. 472, on Final Passage of the All-American Tax Relief Act, ''aye.''

## PAYING TRIBUTE TO CHIEF DISTRICT COURT JUDGE CHARLES BUSS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to recognize Charles Buss for his exemplary service as Chief District Court Judge for Mesa County, Colorado. For over 27 years, Judge Buss has served the people of Mesa County, and Colorado, with honor and distinction. I would like to join my colleagues here today in recognizing his commitment and dedication to our justice system.

Charles began his career as a private practice attorney before being appointed to the Mesa County Court by Governor Richard Lamm in 1977. In 1987, he was appointed Chief Judge where he was responsible for overseeing the Twenty-First Judicial District's administrative, budget, and personnel decisions during a time when the local caseload more than doubled. Judge Buss was also instrumental in the modernization of the district by bringing computer automation to the court system, and encouraging the construction of a new Justice Center.

As a community leader, Judge Buss served on the Colorado Juvenile Justice Council for 15 years. He was also a member of the Mesa County Partners' board and the Mesa County Community Corrections board. Currently, he is serving as a chairman of a court reform committee regarding dependency and neglect.

Mr. Speaker, I am honored to recognize Judge Charles Buss before this body of Congress and this Nation today. Judge Buss was an excellent trial judge and his dedication to the people of Mesa County, Colorado and the Justice System will be missed. It is a great pleasure to recognize his efforts and I wish him all the best in his retirement.

## PAYING TRIBUTE TO THE ROYAL GORGE SUSPENSION BRIDGE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a Colorado landmark, the Royal Gorge Bridge. Canon City is celebrating the Bridge's 75th anniversary this year, and I would like to join my colleagues here today in recognizing this tremendous engineering achievement before this body of Congress and this Nation.

Construction began on the Royal Gorge Bridge on June 5, 1929 and was completed in less than six months with no loss of life. Built using more than 100 tons of Colorado produced steel and 1,300 wooded planks, the bridge spans a record breaking 1,053 feet above the floor of the gorge. Since being dedicated on December 6, 1929, the bridge has seen more than 20 million visitors and has been the location for movie and commercial filming, and various recreational activities. Today the bridge is the center piece of a sprawling 360 acre theme park bordering the Arkansas River.

Mr. Speaker, it is a privilege to recognize the 75th anniversary of the Royal Gorge Bridge. The bridge is a symbol of American ingenuity and engineering, and has served the State of Colorado for over three quarters of a century. It is with great pleasure that I recognize this landmark before this body of Congress and this nation today.

## A SALUTE TO MR. DONALD R. MANUEL

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. WOLF. Mr. Speaker, it is my pleasure today to recognize my constituent, Mr. Donald R. Manual, of Herndon, Virginia, on the occasion of his retirement after almost four decades of service to the United States Army.

Mr. Manuel received his commission as a second lieutenant, Field Artillery, in 1964 and quickly demonstrated expertise during his service at Fort Sill, Oklahoma, and the U.S. Army Engineer Supply Center in St. Louis, Missouri.

In 1968, Mr. Manuel began his career as a United States Army civilian employee as program manager for Value Engineering, Methods and Standards, and Commercial Activities. In 1980, he obtained the position of assistant for General Engineering in the Office of the Assistant Secretary of the Army (Installations and Housing). Mr. Manuel has become the Army's primary policy contact dealing with base closure and realignment actions.

Throughout his career, Mr. Manuel has provided outstanding leadership, advice and sound professional judgment on significant issues before Congress and the Army. His counsel was invaluable to Army leaders and members of Congress as policy implications were considered.

It is my pleasure to honor Mr. Manuel's distinguished record of public service and dedication to the United States Army. He has been a truly exceptional career civil servant and will be missed by the United States Army.

## RECOGNIZING THE 175TH BIRTHDAY OF THE CITY OF CHESTER, IL

### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. COSTELLO. Mr. Speaker, today I'd like my colleagues to join me in honoring one of the oldest and most historical communities in southwestern Illinois. The City of Chester is one hundred and seventy-five years old.

The town of Chester, also the county seat of Randolph County, traces its origins to its location as a river community along the bluffs of the Mississippi River. The river serves as the community's western boundary and has long been a critical part of Chester's history, development and growth.

The founding of Chester is traced to an early settler named Samuel Smith. Smith became associated with a small settlement otherwise known as Smith's landing, due to its proximity to a river ferry crossing and supporting business. In the summer of 1829 however, Smith erected a dwelling, established a ferry and began construction of a mill. His wife, a native of Chester, England, was named Jane Thomas. Thomas originally came to Illinois with the Swanwick family and bestowed the name of her home town on this new and growing settlement. Smith kept a hotel and ferried passengers across the river on a flatboat.

Chester's chief commodity back then was castor oil which was used as a lubricant; however Castor oil lost its importance as the petroleum industry developed. In production of this oil, Chester had the advantage over other surrounding communities in the region such as Pinckneyville and Frankfort, who also had castor oil presses, because of its close proximity to river transportation. Castor oil shipments from Chester were made to St. Louis, Philadelphia, New Orleans, and as far away as England. In 1830, Chester increased in size and an iron foundry, machine shop and several large stores were constructed on the riverfront. Steamboats did a brisk business at Chester.

In 1837, Nathan Cole began operating a small sawmill with a corn-grinding attachment. A few years later he converted this enterprise into a flourmill which became the Cole Milling Company, otherwise known as present day Con Agra. Cole Milling made use of one of the first electric generators, allowing its surplus power to be utilized for power to operate Chester's street lights. Chester actually became one of the first communities in the state to have electric street lights, even prior to their use in Chicago.

Samuel Clemens, otherwise known as Mark Twain, was a pilot on the Mississippi from 1857 to the Civil War and on several occasions stopped at Chester at the Cliff House, which was a river hotel.

In 1832–33, a cholera epidemic swept through the community which took many lives. South of the present site of the Con Agra Mill, a few stones on a hillside mark the burying place of those who died of the epidemic.

The Illinois State Penitentiary at Menard had its beginning during the Civil War when it was a repository for Confederate prisoners being transported to the Federal Prison on the Alton, Illinois riverfront. The original brick building is still standing inside the prison's yards.

After the capitol moved from Kaskaskia to Vandalia and later Springfield, Illinois the region had a disastrous flood in 1844. When the Randolph county seat was moved from Kaskaskia to Chester, records were stored in a schoolhouse which was the temporary courthouse until a new one was completed in 1848. The stone annex, now the Archives Building, was built in 1863 and serves today as a museum for Randolph County history. The new

Randolph County Courthouse, built in 1975, stands today on the bluff overlooking the river.

The buildings along the river that were part of the original town of Chester have been razed. However, a number of the old homes which stood on the bluffs above the town overlooking the river still give evidence of the wealth and the architectural style of that period. Many riverboat captains and other patrons of the river settled to this riverboat row of homes with an impressive overlook of the river.

Chester has had a rich and varied history in the development of the state of Illinois and of the nation. Illinois' first Governor, Shadrach Bond, has his resting place in Chester. Bond, who had lived in nearby Kaskaskia, was elected Governor without opposition in 1814, when Illinois was founded. Chester is also home to the Gilster Mary Lee mills and operations, producing high quality baking products for use throughout the world.

Chester also counts several historic homes as part of its heritage and culture. The Pierre Menard home is the finest example of Southern French Colonial architecture in the central part of the Mississippi river valley. Menard was a busy trader, storekeeper and politician of his period. He served as Lt. Governor under Governor Bond.

Chester is also home to one of America's most beloved cartoon characters, Popeye. Popeye's creator, Elzie Segar, was born in Chester and spent much of his youth there. When Elzie was 12 years old, he worked at the Chester Opera House and during that time he did odd jobs, played the drums with the orchestra and became the theatre's projectionist.

While films were re-wound, Popeye and many other characters were born as Elzie drew and showed them on glass slides before the local townspeople. Elize Segar and Popeye still have a place in Chester.

Chester today is a community of over 8500 people and boasts many hotels, restaurants and businesses. It continues to serve as a historic focal point for the development of southwestern and southern Illinois.

Mr. Speaker, I ask my colleagues to join me in honoring the community and people of Chester, Illinois and to recognize its role in the development of southwestern and southern Illinois.

## HONORING FATHER JAVIER DE NICOLÓ

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. HONDA. Mr. Speaker, I rise today on my behalf and on behalf of Mr. LANE EVANS, Mr. SAM FARR, Mr. RÁUL M. GRIJALVA, Ms. SHEILA JACKSON-LEE, Mr. GERALD KLECZKA, Ms. BARBARA LEE, Mr. JAMES P. MCGOVERN, Mr. GREGORY MEEKS, and Mr. PETE STARK to honor the extraordinary contributions of Father Javier de Nicoló, a champion for the impoverished and forgotten children of Colombia. The methodology that he developed and instituted through the Bosconia Program, a child services program for children who live in the street without parents, serves as a model throughout the world.

Father Javier de Nicoló was born in Bari, Italy on April 29, 1928. At 18, shortly after the end of World War II, he decided to join the Salesian Community in Naples, which has a strong record for its work with the poor. In 1948, he emigrated to Agua de Dios in Colombia to treat patients with Hansen's disease. In the late 1960s, Father de Nicoló served as the chaplain of the Carcel de Menores, a prison in Bogotá for minors.

There, Father de Nicoló learned that children entering Bogotá's prisons were beaten, robbed, and raped. This experience hardened them, making it difficult to reintroduce them into society. Father de Nicoló recognized the need to provide structure and guidance in the lives of abandoned children who roamed the street—before they found themselves in prison. In 1970, with 20 children released from the Carcel de Menores on his personal recognizance, he organized Bosconia, a small, experimental learning community in the slums of Bogotá. Over time, Javier witnessed the transformation of hundreds of irresolute boys into confident and independent young adults through participation in his program.

In Bogotá, there are several thousand boys from ages 5 to 15 who live in anarchy. Death is a looming reality for Bogotá's street children. For many years, Colombia has experienced the highest child murder rate in the world. Vigilante groups engage in driveby shootings or "social cleansing" as they label it, which lead to the massacre of hundreds of children each year. Nearly all street children carry knives, which they use for protection and to intimidate others. Inevitably, some children kill each other in a scuffle that turns deadly. Dozens of children kill themselves by smoking highly addictive cocaine which can lead to paralysis. Child prostitutes contract AIDS and spread the disease.

What began as an experiment in the early 1970s has grown into an organization whose branches reach thousands of children in Bogotá, Cali, Medellín, and Buenaventura. The Bosconia Program is a mixture of vocational training and a boarding program designed to help the children ease themselves off the streets into a more traditional lifestyle. With only a handful of adult supervisors, it graduates a growing number of young adults into the workforce on a tight budget. Bosconia operates on the philosophy that the wit and spunk a child uses to survive in the street reflects an intelligence that the program's educators can redirect. In fact, the Bosconia Program has been replicated by many organizations in numerous countries. Nearly 20,000 youngsters from the street have been rescued by the Bosconia Program, saved from indifference and generalized violence, becoming elevated as individuals and members of society.

Programming at Bosconia strengthens the character of children who once lived in the streets of Colombia and provides them with the resources that they need to become active participants in society. Attracted to the promise of a better life, boys voluntarily enter the courtyard of Bosconia. The mark of those anarchic days of stealing, starving half-freezing, fear and bravado passes from their faces. They have learned to respect themselves because Father Javier de Nicoló, his associates, and the other boys had respected them.

Although graduates of Bosconia have the character and the will to engage in the Colombian workforce, the unemployment rate is steadily rising. Decades of violence that include murder, robbery, and kidnappings that has ravaged the countryside have brought millions of rural people into the country's cities. Those that graduate from Bosconia will need more than spiritual transformation if they hope to compete for jobs that will allow them to live with dignity. This cold reality has encouraged Javier de Nicoló to seek private funds to establish a program that will allow his pupils to receive on-the-job training, earn and save money, and gain experience in managing small enterprises.

Many social scientists believe that personalities rarely change after children reach their teenage years. To the contrary, Javier de Nicoló has taught us that the odds can be beaten and that we should never forfeit our children—our future—to the vices that plague our streets. We should nurture them, inspire them, and invigorate their minds with the dream of living healthy and fulfilling lives. The world can use more people with the compassion and motivation of Father Javier de Nicoló. The children of Colombia are truly blessed to have him as their guardian. We thank him for his work, his resolve to make a better life for destitute children, and we learn from the wisdom of his successful model, seeking opportunities to replicate this success globally.

By dedicating over three decades to rescuing and integrating lost children into society, Father de Nicoló inspires a call for global solidarity and responsibility—one that reaches beyond the geographic bounds of Colombia. He has developed a process to guide personal and social renovation, giving life to children who are waiting for an opportunity to rejoin their families and communities as well as exercise their citizenship without discrimination. We applaud this leader who is a tireless advocate for the human rights of all our world's children.

## HONORING ROBERT MOSES FOR LIFELONG COMMITMENT TO EDUCATION

### HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. CAPUANO. Mr. Speaker, I rise today to congratulate Robert Moses who tonight will receive the prestigious Harold W. McGraw Jr. Prize in Education. Dr. Moses is a Civil Rights activist, math educator and creator of the highly acclaimed Algebra Project, which is located in Cambridge, Massachusetts.

Along with Dr. Moses, Geoffrey Canada, Cecelia Cunningham and Janet Lieberman are being honored during an awards ceremony at the New York Public Library. The four have been chosen to receive the prestigious 17th annual award for dedicating themselves to closing the achievement gap. These individuals have worked tirelessly and creatively to give children with few advantages the opportunity to achieve, both academically and ultimately professionally.

Dr. Moses believes that math literacy is the key to 21st Century citizenship. He created the Algebra Project to help middle school students make the conceptual shift from arithmetic to algebra so they can be prepared for algebra in the eighth grade, and thus a college preparatory math sequence in high school. Three decades later, the Algebra Project

reaches approximately 9,000 students per year.

I salute Dr. Moses and the other honorees for their remarkable and untiring contributions to education. America's youth will reap the rewards of their selfless dedication. They are truly gifted educators who have made a tremendous difference in the lives of so many.

## CONGRATULATING LANCE ARMSTRONG ON RECORD-SETTING VICTORY IN 2004 TOUR DE FRANCE

SPEECH OF

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 22, 2004*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I offer strong support for House Resolution 761 that honors Lance Armstrong on his record-setting victory in the 2004 Tour de France. In July, Lance Armstrong proved again that he remains the world's greatest cyclist by winning his sixth consecutive Tour de France, an all-time record. I was pleased to advance this resolution to the House floor from the Committee on Government Reform, which I am privileged to chair, and I strongly urge its adoption by the full House.

As someone who previously coped with two bouts of melanoma, I am particularly in awe of Lance's perseverance to outlast a pernicious form of testicular cancer. Incredibly, at just age 25, Lance learned that cancerous cells had spread to his abdomen, lungs and brain. Through extensive treatments provided by his outstanding doctors, Lance was pronounced cancer-free within a year of his diagnosis.

Lance's wonderful recovery was perhaps only topped by his astounding comeback. Winning the 1999 Tour de France highlighted his return to racing, just over two years after he beat cancer. He became only the second American to ever win the race. As we all know, Lance did not stop after one victory. He has returned to France each of the last five summers, and he has won the race five more times.

Lance Armstrong personifies hope for those suffering from cancer and other serious illnesses, and indeed, all Americans. Therefore I am pleased that the House is taking time to pay tribute to his tenacity, work ethic and patriotism.

Mr. Speaker, in closing, I congratulate Lance Armstrong on his awesome performance in the 2004 Tour de France and wish him the very best in his future pursuits.

## NATIONAL PROSTATE CANCER AWARENESS MONTH

### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mrs. MYRICK. Mr. Speaker, September is National Prostate Cancer Awareness Month. Education and advocacy are crucial in the fight against cancer. Imagine a disease that takes the lives of 30,000 U.S. men each year. Now imagine that disease ablated in just a few hours with minimal pain and side effects. Ultrasound is revolutionizing prostate cancer treatment and is well on its way to replacing traditional treatment models.

I am honored to have a company in my district that is making this revolutionary treatment a reality. U.S. HIFU is a development company dedicated to fighting cancer and preserving patient quality of life with noninvasive high intensity focused ultrasound technology. High Intensity Focused Ultrasound, HIFU, is a state-of-the-art acoustic ablation technique for prostate cancer treatment that utilizes the power of ultrasound to destroy deep seated tissue with pinpoint accuracy.

HIFU is noninvasive, non-ionizing and 88–99 percent of patients treated have a PSA (prostate specific antigen) of less than 1 after one year, which indicates no evidence of recurrence.

Equally important is that there has been minimal to no incidence of incontinence and only 7 percent erectile dysfunction.

It can be preformed in one to three hours on an outpatient basis with an epidural anesthetic. Unlike other treatments, HIFU patients are up and walking around within hours of being treated.

The Sonablate 500, the HIFU device, targets tissue in the prostate in the same way that sunrays entering a magnifying glass burn a leaf. When a magnifying glass is held above a leaf in the correct position on a sunny day the sunrays intersect below the lens and cause the leaf to burn at the point of intersection. The scientific principles at work in this example are the same as those with HIFU. The energy source is the only difference. Instead of light as the energy source, HIFU utilizes sound.

In basic terms, the technology allows the physicians to get a live image of the prostate and cancerous tumor, carefully target cells with custom treatment planning and kill the tumor with a beam of clean ultrasound energy effectively destroying the cancerous tissue, leaving surrounding healthy tissue untouched.

HIFU involves no incision, and it can be applied repeatedly without damaging other tissue, unlike radiation-based therapies. As many as one-third of patients who receive either external radiation therapy or brachytherapy have a recurrence of cancer; fortunately, HIFU can be a salvage technique for these recurrent failures.

Prostate cancer is the most common type of cancer found in American men and the second leading cause of death in men. The American Cancer Society estimates that there will be about 230,900 new cases of prostate cancer in the United States in the year 2004. About 29,900 men will die of this disease.

## TRIBUTE TO MAYOR GEORGE HARVELL, JR.

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. TANNER. Mr. Speaker, I rise today to pay tribute to George Harvell, Jr., who, after 20 years as mayor of Millington, Tennessee, has decided not to seek reelection in November.

Mr. Harvell was born in Covington, Tennessee, but has lived in Millington since he was 3 years old. He was spurred to public service in 1968 after hearing an alderman dismiss the effects of U.S. Highway 51 going through the city because it would not affect him personally. Mr. Harvell ran for alderman that year and served 16 years before becoming mayor.

As mayor, Mr. Harvell dealt with a 1987 flood, paddling through town in a boat to check on residents. He also turned the 1993 closing of the town's Naval Training Station into a positive thing for Millington by building a subdivision to attract more upscale housing. He recently helped recruit the University of Memphis to Millington, where classes on a satellite campus began this fall.

Known for his cool demeanor and fierce integrity, Mr. Harvell will be missed when he adjourns his last meeting December 6. I know he is looking forward to traveling and hunting as well as spending more time with Virginia, his wife of 50 years. But his departure certainly will be a loss to Millington and to the 8th District.

Mr. Harvell has been more than a mayor. He has been a friend to his community. He has been a friend to me. Mr. Harvell also has been more than a public servant. He has been a public example of the impact a single person can have on his community when he sets his mind to it.

Mr. Harvell has been a great mayor. He continues to be a great man and a great friend. I applaud his success and appreciate the time he has given and the commitment he has shown to Millington.

## RECOGNITION OF LTC WILLIAM BOWERS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of fellow West Point graduate LTC (Ret.) William Bowers. LTC Bowers was recently killed in Iraq while traveling between meeting locations. His vehicle was hit by an RPG, and then followed by small arms fire. LTC Bowers was killed in action as a result of the ambush.

LTC Bowers was a graduate of the United States Military Academy, Class of 1979. He was originally from the Chicago area but after retiring from the Army he moved to Huntsville, Alabama where he had become a Vice President and Program Manager at the SEI Group, INC.

Through his military career he served in a variety of engineering, training and leadership assignments. These assignments include, but are not limited to, combat engineer command and staff positions with the 5th Infantry Division, the 25th Division, and the 2nd Engineer Group. In other assignments he worked as a reserve component advisor, military instructor, and observer-controller at the Army National Training Center. Not enough can be said about the great sacrifice this man made for his country, he made the ultimate sacrifice. He is survived by his wife, Evelyn, and his two children, Brian and Jennifer. My thoughts and prayers go out to his family and all of his loved ones.

LTC Bowers gave his life in an effort to improve the lives of others. This has been evident throughout his entire career and this sacrifice should never be forgotten. LTC Bowers, along with so many other brave men and women, put their lives on the line day in and day out. My sincere thanks go out to them all. God bless them, and may God continue to bless America.

## RECOGNIZING JOSEPH E. BLANCH FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Joseph E. Blanch, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 418, and in earning the most prestigious award of Eagle Scout.

Joseph has been very active with his troop, participating in many Scout activities. Over the course of the years that Joseph has been involved with Scouting, he has earned numerous merit badges and served in a wide range of important positions.

For his Eagle Scout project, Joseph organized the production and installation of a much need kiosk information both Hodge Park's Living History Museum in Kansas City, Missouri. This was no small task, as the total hours involved in this project totaled in excess of 260.

Mr. Speaker, I proudly ask you to join me in commending Joseph E. Blanch for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## CONGRATULATING JACQUELINE NOONAN

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. LEVIN. Mr. Speaker, it gives me great pleasure to rise and congratulate a good friend and fellow public servant, Jacqueline Noonan, as she receives the 2004 Alexander Macomb ''Woman of the Year'' Award from the March of Dimes.

Jacqueline Noonan was raised in Avon Township, now Rochester Hills. She graduated from Rochester High School and graduated from Oakland University with a Bachelor's degree in Secondary Education. Jackie began teaching after graduating while continuing to work on her Master's degree at Oakland University. She and her husband, Jerry, became part of Utica, where they thoroughly enjoyed ''small'' town life with their five children: Christopher, Jbrome, Catherine, Melissa and Tracy.

In 1968, Jackie and Jerry turned their attention to owning and operating a family business, Noonan's Inc., which they did for 21 years. As their children entered Utica Community Schools, Jackie began her 24-year tenure as a volunteer in the school system and served in almost every imaginable position from Enrollment Advisory Board member to Picture Lady.

Jackie Noonan was elected to Utica's City Council in 1981 and was named Businesswoman of the Year by the Utica Business and Professional Women's Club. She also returned to Oakland University and earned a Master's Degree in Public Administration in 1988.

Jackie Noonan was elected to the position of Mayor of Utica in 1987. In Utica, a city of some 5000 residents, the Mayor is also the Chief Executive Officer and is ultimately responsible for all services and functions of city government. During her tenure, Ms. Noonan researched and developed the famous 425 agreement; this intergovernmental agreement saved Utica from dissolution and brought about a sharing of resources and services between several communities.

In 1989, Ms. Noonan assumed the role of spokesperson for Macomb County Traffic Safety Association's school level ''Don't Drink and Drive'' alcohol education program, and in 1991, she returned to the role of educator with the Utica Community Schools. Certified to teach all levels of French and social studies, she is currently a full time faculty member at Eisenhower High School.

Jackie Noonan is currently serving her ninth consecutive term as Mayor of Utica, is the past chair of the Macomb County Mayors' Association, and serves on a variety of boards and commissions locally and statewide.

Mr. Speaker, I ask my colleagues to join me in recognizing a terrific public servant, a wonderful community activist, Jackie Noonan, for her devotion to her community and her achievements as a positive and accomplished role model to her family, friends, and neighbors. It has been my pleasure to work with Mayor Noonan on numerous local issues, especially those related to M 59, and call her a friend.

## RECOGNIZING 60TH ANNIVERSARY OF LIBERATION OF GUAM DURING WORLD WAR II

SPEECH OF

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 28, 2004*

Ms. BORDALLO. Mr. Speaker, since the end of the Spanish-American War in 1898, the island of Guam, whose residents I have the privilege of representing here in Congress, has been a territory of the United States and a part of the American family. The Department of the Navy administered the U.S. Territory of Guam from the time the island was ceded to the United States under the terms of the Treaty of Paris until December 8, 1941, when, during World War II, Imperial Japanese military forces attacked, invaded and then occupied Guam. The attack on Guam occurred only hours following the December 7, 1941, Japanese bombing of Pearl Harbor in Hawaii, at the time also a territory of the United States; the different dates owing to the International Date Line.

The enemy occupation of Guam lasted approximately two-and-a-half years, from December 10, 1941 until July 21, 1944. The occupation was a time of tremendous hardship for the Chamorro people, the indigenous people of Guam. The people of Guam, who were U.S. nationals at the time, remained steadfastly loyal to the United States. Residents of the island, who numbered approximately 22,000, were subjected to forced labor, forced marches and deprivation at the hands of an enemy corroborating with the Axis forces. In the weeks prior to liberation, which came on July 21, 2004, the brutality of the occupying army increased with severe beatings and public executions. Groups of Chamorro men, women, and children were herded into caves on separate occasions and massacred. The entire population was forced to march to several internment camps in the southern part of the island.

On July 21, 1944, units of the 3rd Marine Division, 77th Army Infantry Division and 1st Marine Provisional Brigade, comprising a total force of roughly 55,000 service members, stormed the shores of Asan and Agat in southern Guam beginning the campaign to liberate the only American community to have been occupied by a foreign power since the War of 1812. Thirteen consecutive days of heavy naval and air bombardment preceded the landing of U.S. forces to weaken Japanese defense of the island.

Intense and fierce combat between the U.S. forces and the entrenched Japanese Army, which numbered 18,500 men, continued until August 10, 1944, when organized resistance ended and the U.S. forces seized control of the island. The Battle for Guam was marked by combat on difficult terrain against a well-prepared enemy. The Japanese defended the island from positions located in caves, tunnels, and from pillboxes situated on the beaches, cliffs, and hillsides overlooking the invasion beaches. Today, these beaches and many of these defensive positions are preserved within the War in the Pacific National Historical Park, established by Congress in 1978 (Public Law 95–348). This Park is the only site in the National Park System that honors the bravery and sacrifices of all individuals, service members and civilians, who experienced World War II in the Pacific Theater.

Over 1,100 Chamorros died as a result of the occupation of Guam, and every Chamorro endured one form or another of brutality, including personal injury, forced labor, forced march or internment during the occupation. Approximately 1,800 U.S. Marines, Soldiers, Sailors, Airmen and Coast Guardsmen were killed in action during the Battle for Guam. There were over 8,000 U.S. casualties. The Japanese suffered over 17,500 casualties, the large majority of which ended in death.

Today, Guam remains a territory of the United States. Congress extended U.S. citizenship to the people of Guam after World War II in 1950 (Public Law 81–630). Guam's current economy is largely tied to the Japanese economy given the proximity of the two and the importance of Japanese tourism to the island. The one million Japanese tourists the people of Guam welcome each year is a testament to the peace and friendship that has emerged between the United States and Japan since the end of World War II. The people of Guam remain an important part of this international friendship.

H. Res. 737 recognizes the Liberation of Guam on the occasion of the 60th Anniversary. In doing so, the resolution calls attention to the unique experience endured by the people of Guam and the extraordinary heroism

displayed by the U.S. service members who took part in the battle to recapture Guam. The resolution further encourages the American people to commemorate the Liberation of Guam and to observe the anniversary of the battles of the Pacific Theater during World War II. Lastly, the resolution requests the Secretary of the Interior to establish commemorative programs honoring the liberators and the people of Guam at the War in the Pacific National Historical Park. These commemorations, which precede the commemorations next year of the 60th Anniversary of the end of the War in the Pacific, give context to the extensive and difficult Pacific campaign.

I believe this Congressional recognition of the Liberation of Guam will enhance public understanding of and appreciation for the occupation experience of the people of Guam and the heroism of the liberators who took part in the battle to recapture Guam. I want to draw attention to the commendable efforts of the National Park Service, and, specifically, the efforts led by the personnel at the War in the Pacific National Historical Park, that have been made to date in the development of programs to commemorate the Liberation of Guam. These efforts notably include the recent enhancement of the Park's official Web site that now provides Internet access to many historical publications and approximately 700 historical photographs. These efforts are important in the absence of a restored museum and visitor contact facility following Supertyphoon Pongsona, which damaged Park property in December 2002. I encourage the continuation and expansion of such efforts consistent with the Park's mission. I also encourage a concerted effort to seek input from residents of Guam and veterans of World War II in the development of these and future commemorative programs.

Today, the Liberation of Guam is one of the most important commemorations held annually on the island. Liberation Day on Guam is a time of remembrance and celebration. The people of Guam commemorate the sacrifices of those who endured the occupation and those who gave their lives to liberate the island, and we celebrate the triumph of our people over adversity and oppression. As we move forward from July 21, 2004 to the 61st Anniversary on July 21, 2005, it is my hope we all reflect on our freedom and remember the sacrifices of those that came before us. I know this House has long been reminded of the Guam story. My predecessors, Mr. Won Pat, Mr. Blaz, and Mr. Underwood, would often take to the floor to speak to this body about the significance of Guam's role in World War II, the greatest conflict of the last century. Through their efforts the story of Guam's occupation and liberation has found its place in the national history of World War II. I, like they, seek to protect this history, to educate our country about our experience, and to bring appropriate and due recognition for our people and our veterans.

## IN RECOGNITION OF RICHARD HOPKINS

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. ROGERS of Alabama. Mr. Speaker, on Sept. 11, 2004, teens from around the Third District gathered on the campus of Jacksonville State University to remember the events of 9/11, and to reflect on the impact of those events on their life today.

One of the speakers that day was Richard Hopkins, an eleventh grade student at the Donoho School in Anniston. In honor of his words and in recognition of his gift for writing, I am placing his entire speech in the CONGRESSIONAL RECORD so that others may have the opportunity to hear his thoughts about that fateful day.

The text of his speech is as follows. Thank you, Mr. Speaker, for the House's attention to this important matter.

"BEYOND THE SHEER LOSS OF LIFE, WHY WAS THIS SO IMPORTANT?"

(By Richard Hopkins)

"This portion of our program will focus on the importance, beyond the sheer loss of life, of the 9/11 attacks and their aftermath. There were a number of significant shifts in policy and attitude in several major areas of American life in response to the September 11th attacks. One of those areas concerns the American populace as a whole, and I will briefly talk about the changes and reactions amongst American citizens. I will begin by focusing first on the general population of Americans, and then moving on specifically to teenagers.

"In the wake of the September 11th attacks, America's emotional spectrum was a kaleidoscope of mixed and contrasting feelings. People were confused, angry, hurt, sad, lonely, shocked, and grim. At the same time, feelings like hope, brotherhood, community unity, and national pride began to come to the fore. Since the closing of the Cold War, a sort of Pax Americana had come into existence. Americans more or less felt safe and secure within their own borders, and unaware of any problems around the world. This is not saying that Americans were indifferent to what was happening abroad, merely that these events did not fully emerge into the everyday public consciousness. Instead, Americans began to focus inward in facing their own dilemmas and social issues. Foreign policy and the issues that stem from it became abstract considerations to the average American citizen. They would occasionally read something in the newspaper, watch something in the news, or hear something on the radio that briefly aroused their interest, but only in a displaced and quickly passing manner. Even when events directly involved the United States, Americans could not bring themselves to become too concerned, because they couldn't quite grasp how these happenings directly linked to themselves, their livelihoods, and impacted upon their everyday lives. They had no conscious awareness of why it should matter to them. This is not intended as an attack upon the American people, merely, it is an observation of how to them, everything might as well have been placed in a white and murky fog, because they had nothing tangible with which they could relate their lives to.

"What happened on September 11th changed all of that. No longer were Americans dealing with distant facts, of attacks and kidnappings happening elsewhere, far away. No longer did they have to consider something that they couldn't relate to their lives. No longer were the problems to be faced abroad, but instead, they were to be faced within our very own national borders. Instead, they were forced to confront ugly facts that affected their lives in every way. Not since the attack on Peal Harbor during World War II, or more recently, the Cuban Missile Crisis, has there been such a clear cut and direct threat to American lives and properties at home. Air travel has become increasingly restricted. Security at public and federal locations has been stepped up. New laws and regulations have been passed, while new organizations with new responsibilities have been created. The economy has fluctuated, and the prices of everyday goods and services have gone with it. Wherever one looks, one can see the direct impacts of what happened on September 11th. This is what caused the incredible turmoil in the post 9/11 environment. Individuals could clearly see the consequences of an action, and realize how it affected them, and therefore they were able to become passionate and care about it. It has given the average citizen a reason to become concerned and active in today's political environment.

"Now, let us consider teenagers specifically within this post 9/11 America. In many ways, a significant number of teens remain unaffected by what transpired three years ago today. This is because, unlike adults, many have not been greatly inconvenienced or exposed to the results of the attacks. Their parents handle travel arrangements, buy groceries, and generally manage all of the details of life that go unnoticed by teenagers, leaving the teens to their own, smaller worlds that still remain detached from the reality that everyone else experiences. However, a great many teenagers have been just as affected, if not more so, as their adult counterparts.

"Immediately after 9/11, news coverage showed grief and fear evidenced across the spectrum of American citizenry, including teenagers. Afterwards, however, once fear and grief were reined in, and determination and strength were in control, focus shifted to older subjects and viewers. This meant that teenagers were left behind, with the final images of their reactions displaying a time of vulnerability, with none of the strength and determination that followed for them. Teens have last been portrayed as afraid, or mourning, and have yet been given a chance to truly speak again and show how they have adjusted and thrived like adults have.

"9/11 has stirred passions on both ends of the political scale amongst teenagers. Because of the terrible events of that day, teens have put significant thought into what happened, why, how they feel about it, and what should be done. Teens have powerful feelings on a number of political issues, be it the new measures and laws that have been passed in the interest of Homeland Security, to the war on Iraq, and to the United States' Un-relations. Unfortunately, teens have not been given an opportunity to express these feelings and vent this pressure that builds up inside of them. As a result, it is easy for them to become resentful towards adults, who tell the teenagers how the world is and give little thought to asking them if they disagree, or if they would like to respond.

"As a result of these pent up emotions and the uncertain environment that was created, many teenagers, especially those that are already troubled, have had increasing emotional problems. Heightened aggression, changing lifestyle and habits, depression, paranoia, increasing isolation, anxiety, and more are symptoms of these problems.

"This is why it is so important for Americans to turn to the younger members of our

society and ask them ''How do you feel about this? What do you suggest? What would you like me to do?'' This action will increase trust between teenagers and adults, as well as recognize the validity of teen opinions, and help them to express their inner feelings and feel like they are valued members of society. This is crucial, because many of those teenagers who witnessed the events of September 11th are now able to vote, and many more will soon be able to. It is important that they become recognized members of the political population, and not be devalued because they were never given a chance to express themselves or give voice to their beliefs. This attitude cannot be allowed to stand, because it would hamper the ability of future voters from fully forming their political identity, and fulfilling America's dream of a democratic government.''

## ARAPAHO AND ROOSEVELT NATIONAL FORESTS LAND EXCHANGE ACT OF 2004

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise in strong support of this bill, which would expedite an exchange of lands between the city of Golden, Colorado and the Federal Government.

The bill was introduced by Colorado's senior Senator, BEN NIGHTHORSE CAMPBELL. The House passed a similar measure last year. I joined my colleague from Colorado, Mr. BEAUPREZ, in introducing the House version.

Under the bill, the city of Golden will receive about 9.84 acres that now are part of the Arapaho and Roosevelt National Forests. The City needs the land to construct a short pipeline—about 125 feet long—to bring water into a storage facility where it will be held for use by the city and its residents.

In return, the City will transfer to the United States several parcels of land that are now inholdings within National Forest boundaries.

These inholdings include lands near Argentine Pass, which straddles the divide between Clear Creek County and Summit County and are crossed by the Continental Divide Trail. Adding those lands to the National Forest will reduce possible conflicts and increase public access to areas of high recreational value. So, this exchange is not only in the interests of the city of Golden and its residents, but in the public interest as well.

The bill also includes a provision under which the City would be authorized to start work on the pipeline while the exchange proceeds, and further provides that if for some reason the exchange cannot be completed, the city will buy the lands that are needed for the pipeline.

I want to thank the leadership of the Resources Committee, especially Chairman POMBO and Ranking Member RAHALL for making it possible for the bill to be on the House floor today.

It is a modest bill but one that is very important for the city of Golden and its residents. It is bipartisan and non-controversial, and I urge the House to agree to its passage so it can go to the president to be signed into law without further delay.

## IN RECOGNITION OF THE 100TH ANNIVERSARY OF KUNDE ESTATE WINERY AND VINEYARDS

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. THOMPSON of California. Mr. Speaker, I rise today to pay tribute to four generations of a remarkable farming and winemaking family that has been producing award-winning California wines for 100 years.

Family patriarch Charles Louis Kunde immigrated to the United States from Germany in 1884, settling in Sonoma County, California. He grew Zinfandel grapes in Windsor for several years before acquiring the means to purchase the 650-acre Wildwood Ranch in Sonoma Valley in 1904. This site is the cornerstone of the family's current farming operation. Vines planted in 1882 on 28 acres of this initial purchase are still used to make the Kunde Century Vines Zinfandel.

The Kunde family won the first of many wine awards, including a gold medal for their estate Zinfandel, in 1915 at the Panama Pacific Exposition in San Francisco, the most prestigious pre-prohibition wine event in the country.

Arthur ''Big Boy'' Kunde took over operation of the winery and vineyards following his father's death in 1922. These were hard times for the family. Prohibition limited wine production to altar, sacramental and medicinal wines and the family had to diversify with a cattle ranching operation.

The original winery closed for good when Big Boy's two sons, Fred and Bob, were serving our country in World War II. The rest of the family continued to grow grapes and raise cattle to save the land.

After the war, the family continued to grow grapes and began to acquire land adjacent to their original ranch. Bob and Fred also began a meat cutting business on the ranch. They cut meat by night and planted vineyards by day.

By the mid 1980s the family had acquired nearly 2,000 acres of contiguous land surrounding the original purchase. The vineyards stretched from the floor of the Sonoma Valley to the Mayacamas Mountains. It was now time to rebuild the winery and Kunde Estate Winery opened its doors in 1990.

Today the winery produces 100,000 cases of wine annually. Ninety percent of the grapes are estate grown. There are 21 varietals and more than 100 clones grown on the estate property.

A new generation of winemakers, managers and growers: Kurt, Bill, Jeff, Keith and Marcia, the children of Bob and Fred, are carrying on the family tradition of fine wine making.

Mr. Speaker, the Kunde Estate Winery and Vineyards is celebrating its 100th Anniversary this year and it is appropriate that we honor them today.

## HONORING THE TOWN OF CHATOM, ALABAMA, ON THE OCCASION OF ITS 100TH ANNIVERSARY

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. BONNER. Mr. Speaker, today I rise to honor the community of Chatom, Alabama, on the occasion of the 100th anniversary of its founding.

Founded on October 4, 1904, Chatom was named the county seat of Washington County three years later. During the past 100 years, the citizens and officials of this community have created a very rich and diverse history, and have worked tirelessly to provide the best benefits possible for themselves and their county.

As a result of efforts by many individuals and community organizations, the county's first high school was located in Chatom, providing more readily-available educational opportunities for the families in the town and the surrounding area. Between 1952 and 1956, the Washington County Hospital and Nursing Home and the county's public library were both opened in Chatom, providing greater access to healthcare and cultural resources.

During the past four decades, the citizens and leaders of Chatom have worked tirelessly to put into place recreational and infrastructure resources which could be used to attract outside industry and lead to an increase in the population base. These innovations have included the construction of the Roy Wilcox Airport in 1963, the opening of an 18-hole public golf course in 1995, and the establishment of the Chatom Community Center in 2000.

Mr. Speaker, the 1,205 residents of Chatom, Alabama, are firmly rooted in their proud past, and at the same time are keeping a careful and optimistic eye on the road ahead. The vision displayed by their community leaders during the past 100 years has led to the creation of a stable community and an anchor for all of Washington County, and I have no doubt that the continued inspired leadership and vision of today's residents and leaders will lead to even greater successes in the years ahead.

It is my hope the Town of Chatom continues its story of success for another one hundred years.

## TRIBUTE TO DENVER DISTRICT ATTORNEY WILLIAM RITTER, JR.

### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Ms. DEGETTE. Mr. Speaker, I rise to honor the notable accomplishments and extraordinary service of Denver District Attorney William (Bill) Ritter, Jr. This eminent public servant merits both our recognition and esteem as his impressive record of leadership and invaluable service has done much to improve the lives of our residents.

Bill Ritter's standing within our community is unrivaled. His tenure has been defined by not only the skills and faculties that distinguish district attorneys, but by a deep and abiding commitment to justice, high ethical standards and professionalism.

Bill Ritter was born on a farm in Colorado and is one of twelve children. He worked construction and used work-study programs to put himself through Colorado State University where he graduated with honors. He subsequently earned his Juris Doctor from the University of Colorado School of Law and served as a former Assistant United States Attorney and Chief Deputy District Attorney. Bill married Jeannie Lewis Ritter and they have raised a family of four: August (William), Abraham, Samuel and Natalie. In 1987, Bill interrupted his legal career to manage a food distribution and nutrition center in Zambia for three years.

Former Governor Roy Romer appointed Bill Ritter to serve as District Attorney for the Second Judicial District of Colorado in 1993 and he has since been reelected District Attorney three times by the people of Denver. Bill understands that he has a public trust of considerable magnitude and he has been resolute in his commitment to protect the safety and welfare of our citizens. He and his staff are responsible for the prosecution of more than 5,000 felony and 15,000 misdemeanor cases every year. But for Bill Ritter, protecting the integrity of the legal process matters and he has done much to bring greater transparency and innovation to the District Attorneys Office. Whether helping our senior citizens fight scams, cracking down on identity theft and check-fraud, advocating for reasonable gun laws, fighting for needed funding to place juvenile offenders in effective programs, or advocating for responsible domestic violence laws, Bill Ritter has provided serious and thoughtful leadership on issues of public consequence. He has created a number of forward-thinking programs including the Denver Drug Court, Victims Services, Community Prosecution, Juvenile Diversion and the Courtrooms to Classrooms program. Many of these programs serve as models for other judicial districts in the nation.

Bill Ritter is nationally recognized on issues ranging from community justice, juvenile diversion and white-collar crime. He has served as faculty for the National Institute of Trial Advocacy, The National District Attorneys Advocacy Center and the National Conference on Juvenile Justice. He is past president of the Colorado District Attorneys Association, Chairman of the Board of Project P.A.V.E. (Promoting Alternatives to Violence Through Education), President of the American Prosecutors Research Institute and is a board member of the National District Attorneys Association, the National Association of Drug Court Professionals and the Mile High United Way.

Bill Ritter has burnished a reputation as a powerful advocate for victims' rights and new approaches to both prevent and deter crime. But more importantly, he is a decent human being and his career has been defined by the courage to adopt new ideas and take the necessary risks to implement them. His efforts have made a real difference and under Bill Ritter's leadership, the Denver District Attorney's Office has made a positive impact on our justice system and improved the quality of life in our community.

Bill Ritter's tenure as Denver District Attorney is quickly drawing to a close. His leadership has been exemplary and he has labored diligently to preserve and improve the administration of justice. His contributions are rich in consequence and on behalf of the citizens of the 1st Congressional District, I wish to express our gratitude and look forward to his continued involvement in our civic life.

Please join me in commending William Ritter, Jr., a distinguished citizen and public servant. His character, leadership and accomplishments command our respect and serve to build a better future for all Americans.

## HURRICANE RELIEF GOOD DEEDS

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. STEARNS. Mr. Speaker, in the wake of recent catastrophic events in Florida of four consecutive hurricanes, it would be easy to dwell on the thousands of tragic stories that have impacted almost all Floridians. Not only was power lost throughout millions of homes statewide, houses were leveled or left in shambles, and lives have been lost. It is certain that these dark stories overshadow our thoughts, but it is important to let people know that there are indeed uplifting stories, and to let people hear about those as well.

When it became apparent that Hurricane Charley would wreak havoc across the State, many companies sprang into action to help in their unique ways: Proctor & Gamble provided items such as Bounty paper towels, Mr. Clean, Always hygiene products, Pringles potato chips, and Iams pet food. Tyson delivered more than 110,000 pounds of pre-cooked chicken, and two trailer loads of ice that had been donated by Wal-Mart. Pfizer, donated prescription drugs to compensate for closed pharmacies, and Bristol Myers Squibb donated 150 cases of infant formula, 50 cases of water, 500 cases of Excedrin, 5,000 pairs of socks, and seven different prescription medicines. General Mills donated over 20,000 cases of food including soup, cereal snack bars and vegetables. General Motors gave three Hummer H2s, equipped with OnStar Satellite communications. And this is just products: companies, including their employees personally, from Johnson & Johnson to Home Depot to Goldman Sachs have donated tens of thousands of dollars.

Countless meals and snacks have been served for going on 6 weeks now, to hurricane-damaged counties in Florida, with thousands more available from Federal, local and private agencies. Emergency housing, clothing and other aid is also being provided. We have organizations set up for the purpose of collecting donations for the Florida Hurricane Relief Fund. One such organization consists of members of the Business Roundtable.

After Hurricanes Charley and Frances steamrolled through Florida, Ivan followed in their paths. CIGNA Pharmacy Management announced soon after that its Florida members would be able to obtain refills on their prescriptions ahead of schedule. "We know that one of the important steps our members need to take to prepare for a severe weather situation such as Hurricane Ivan is to be sure they have an adequate supply of any needed prescription drug on hand," said James Bryant, President of CIGNA Pharmacy Management. "That's why we want to make it as easy as possible for members to get prescriptions filled in advance." CIGNA emphasized that members who are taking life-sustaining medications, or one that require regular administration, fill up on their prescriptions as soon as possible.

And Floridians haven't just jumped in with tangible supplies and money, but with their own blood, sweat and tears. The Florida Hospital Association communicated efficiently and frequently on hospital updates. FHA also organized a rapidly deployable network of help from all hospitals throughout Florida to make sure that all areas have received invaluable medical and nursing manpower. it has not been uncommon that nurses, med techs, and doctors have sacrificially left their own damaged homes to go care for others.

Finally, here is an excellent display of private-public collaboration and flexibility. Right before Hurricane Frances, the Florida Bankers Association, the U.S. Treasury, the U.S. Postal Service and the Social Security Administration sprang into action together. Social Security checks were scheduled to be either deposited into bank accounts electronically, or mailed out hard copy, on Friday, September 3, the day Frances was scheduled to touch down. Due to the imminent approach and anticipated disruption, the Treasury Department asked banks to make available a day early—September 2—electronic funds transfers (EFT) of the monthly checks that retirees and the disabled depend upon. And, the Post Office made every effort to deliver all checks, and where mail was undeliverable, set up areas for beneficiary pick up of checks. Talk about flexible and cooperative service, I even had one Post Office employee in my district go above and beyond and wait Thursday evening after closing for a worried family to pick up their check. Leland Adams of the Post Office in Bell made himself available for this family after hours, in case they decided to evacuate town before the P.O. would open in the morning of September 3rd.

It is this spirit of cooperation, community-mindedness, corporate and public goodwill and personal fortitude that has gotten Floridians through the past 6 weeks. Mother Nature may slow Floridians down, but there's no stopping us. We will get through this.

## RECOGNIZING BRIAN LAND FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brian Land of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, and in earning the most prestigious award of Eagle Scout.

Brian has been very active with his troop, participating in many scout activities. Over the many years Brian has been involved with scouting, he has not only earned numerous merit badges, but the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Brian Land for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## 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, September 30, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### OCTOBER 5

9:30 a.m.

Foreign Relations

To hold hearings to examine the progress of the Millennium Challenge Corporation.

SD–419

10 a.m.

Finance

To hold hearings to examine redesigning the social security disability process.

SD–215

Health, Education, Labor, and Pensions

To hold hearings to examine public-private partnerships to improve nutrition and increase physical activity in children.

SD–430

Judiciary

To hold hearings to examine opening the presidency to naturalized Americans.

SD–226

Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold hearings to examine the nomination of Gregory E. Jackson, to be an Associate Judge of the Superior Court of the District of Columbia.

SD–342

### OCTOBER 6

9:30 a.m.

Foreign Relations

To hold hearings to examine the impact of current visa policy on international students and researchers.

SD–419

10 a.m.

Health, Education, Labor, and Pensions

Judiciary

To hold joint hearings to examine responding to an ever-changing threat relating to BioShield II.

SH–216

2:30 p.m.

Armed Services

To hold hearings to examine the report of the Special Advisor to the Director of Central Intelligence for Strategy Regarding Iraqi Weapons of Mass Destruction Programs.

SH–216

# *Daily Digest*

## HIGHLIGHTS

**Senate and House passed H.J. Res. 107, Continuing Resolution.**

**House Committees ordered reported 15 sundry measures.**

# Senate

## *Chamber Action*

***Routine Proceedings, pages S9867–S9994***

***Measures Introduced:*** Ten bills and four resolutions were introduced, as follows: S. 2857–2866, and S. Res. 441–444. **Page S9936**

**Measures Reported:**

H.R. 1417, To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, with an amendment in the nature of a substitute.

S. Con. Res. 121, supporting the goals and ideals of the World Year of Physics. **Page S9936**

**Measures Passed:**

***Authorizing Legal Representation:*** Senate agreed to S. Res. 443, to authorize testimony, document production, and legal representation in United States v. Roberto Martin. **Page S9985**

***Government of American Samoa:*** Senate passed H.R. 982, to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa, clearing the measure for the President. **Page S9986**

***Congressional Award Act Reauthorization:*** Senate passed S. 2639, to authorize the Congressional Award Act, after agreeing to the following amendment proposed thereto: **Pages S9986–87**

Sessions (for Craig) Amendment No. 3784, to clarify acceptance of Federal funds and resources. **Page S9986**

***Department of Homeland Security Financial Accountability Act:*** Committee on Governmental Affairs was discharged from further consideration of H.R. 4259, to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and the bill was then passed, clearing the measure for the President. **Pages S9987–88**

***Congratulating Veterans of Foreign Wars:*** Senate agreed to S. Res. 444, congratulating and commending the Veterans of Foreign Wars of the United States and its National Commander-In-Chief, John Furgess of Tennessee. **Pages S9988–89**

***Salt River Pima-Maricopa Indian Reservation:*** Senate passed H.R. 4115, to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation, clearing the measure for the President. **Page S9989**

***Indian Child Protection and Family Violence Prevention Act Reauthorization:*** Senate passed S. 1601, to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, after agreeing to the committee amendment in the nature of a substitute. **Pages S9989–93**

***Continuing Resolution:*** Senate passed H.J. Res. 107, making continuing appropriations for the fiscal year 2005, clearing the measure for the President. **Page S9993**

***Native Americans Programs Act Reauthorization:*** Senate passed S. 2436, to reauthorize the Native American Programs Act of 1974, after agreeing to the committee amendments, and the following amendment proposed thereto: **Page S9993**

Sessions (for Inouye) Amendment No. 3783, to authorize research and educational activities relating to Native Hawaiian law. **Page S9993**

**National Intelligence Reform Act:** Senate continued consideration of S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, taking action on the following amendments proposed thereto: **Pages S9873–S9916**

Adopted:

Burns Amendment No. 3773 (to Amendment 3766), in the nature of a substitute. **Pages S9904–05**

McCain Amendment No. 3766, to ensure the availability of electromagnetic spectrum for public safety entities. **Pages S9895, S9896, S9901–03, S9905**

McCain/Lieberman Amendment No. 3774, to enhance national preparedness. **Pages S9905–06**

Collins (for Cornyn) Amendment No. 3727, to amend provisions of law originally enacted in the Clinger-Cohen Act to enhance agency planning for information security needs. **Page S9913**

Collins (for Coleman) Amendment No. 3763, to strike the amendments made by section 202, regarding the National Homeland Security Council. **Pages S9913–14**

Wyden Modified Amendment No. 3704, to improve procedures relating to the classification of information. **Page S9914**

Rejected:

Specter/Feinstein Amendment No. 3761, to specify a term of service for the National Intelligence Director. (By 93 yeas to 4 nays (Vote No. 191), Senate tabled the amendment.) **Pages S9883–95, S9896–97**

Specter Amendment No. 3706, to provide the National Intelligence Director with the authority to supervise, direct, and control all elements of the intelligence community performing national intelligence missions. (By 78 yeas to 19 nays (Vote No.192), Senate tabled the amendment.) **Pages S9874–83, S9897**

Pending:

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification. **Page S9873**

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each. **Pages S9895–96**

Warner/Stevens Amendment No. 3781, to modify the requirements and authorities of the Joint Intelligence Community Council. **Pages S9914–16**

A unanimous-consent agreement was reached providing that certain amendments be the only remaining amendments to the bill other than the pending amendments; further that they be subject to second degrees that are related to the subject matter of the first degree; further that all other provisions governing the consideration of this bill remain in effect. **Page S9875**

A unanimous consent agreement was reached providing that all first degree amendments from the limited list to the bill be filed at the desk no later than 4 p.m., on Thursday, September 30, 2004, and that it be in order for the sponsor of any amendment to modify the filed amendment with the consent of their respective Leader. **Page S9985**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Thursday, September 30, 2004, and that upon conclusion of debate of Warner Amendment No. 3781, Senator Graham be recognized to offer the next amendment; provided further, that upon the conclusion of the first vote, Senator Byrd be recognized for up to 20 minutes. **Pages S9993–94**

**Messages From the House:** **Pages S9932–34**

**Measures Placed on Calendar:** **Page S9934**

**Measures Read First Time:** **Page S9934**

**Enrolled Bills Presented:** **Page S9934**

**Executive Communications:** **Pages S9934–36**

**Additional Cosponsors:** **Pages S9936–37**

**Statements on Introduced Bills/Resolutions:** **Pages S9938–58**

**Additional Statements:** **Pages S9930–32**

**Amendments Submitted:** **Pages S9958–85**

**Authority for Committees to Meet:** **Page S9985**

**Privilege of the Floor:** **Page S9985**

**Record Votes:** Two record votes were taken today. (Total–192) **Page S9897**

**Adjournment:** Senate convened at 9:30 a.m., and adjourned at 7:36 p.m., until 9:30 a.m., on Thursday, September 30, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S9994.)

# *Committee Meetings*

*(Committees not listed did not meet)*

## TERRORIST FINANCING

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded a hearing to examine recommendations of the 9/11 Commission, focusing on efforts to identify and combat terrorist financing, after receiving testimony from former Representative Lee H. Hamilton, Vice Chair, and former Senator Slade Gorton, Commissioner, both of the National Commission on Terrorist Attacks Upon the United States; Stuart A. Levey, Under Secretary of Treasury for Terrorism and Financial Intelligence; Michael J. Garcia, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement; John E.

Lewis, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, Department of Justice; Mallory Factor, Mallory Factor, Inc., New York, New York; and Lee S. Wolosky, Boies, Schiller and Flexner, LLP, Washington, D.C.

## STEM CELL RESEARCH

*Committee on Commerce, Science, and Transportation:* Subcommittee on Science, Technology, and Space concluded a hearing to examine the controversy over embryonic stem cell research, focusing on ethical safeguards in human research, and the moral status of the human embryo, after receiving testimony from Richard M. Doerflinger, U.S. Conference of Catholic Bishops, and David Prentice, Family Research Council, both of Washington, D.C.; Laurie Zoloth, Northwestern University Center for Genetic Medicine, Chicago, Illinois; George Q. Daley, Harvard School of Medicine, Boston, Massachusetts, on behalf of the American Society for Cell Biology; and Marc Hedrick, Macropore Biosurgery, San Diego, California.

## LAND BILLS

*Committee on Energy and Natural Resources:* Subcommittee on Public Lands and Forests concluded a hearing to examine S. 2410, to promote wildland firefighter safety; H.R. 1651, to provide for the exchange of land within the Sierra National Forest, California; S. 2378, to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport; H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 3874, to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal; H.R. 4170, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior; and S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act, after receiving testimony from Guam Delegate Bordallo; Christopher Pyron, Deputy Chief for Business Operations, Forest Service, Department of Agriculture; and Scott Cameron, Deputy Assistant Secretary of the Interior for Performance and Management.

## NOMINATIONS

*Committee on Foreign Relations:* Committee concluded a hearing to examine the nominations of Ryan C. Crocker, of Washington, to be Ambassador to the Islamic Republic of Pakistan, Marcie B. Ries, of the District of Columbia, to be Ambassador to the Republic of Albania, Catherine Todd Bailey, of Kentucky, to be Ambassador to the Republic of Latvia, who was introduced by Senator McConnell, and Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development, after each nominee testified and answered questions in their own behalf.

## BUSINESS MEETING

*Committee on Indian Affairs:* Committee ordered favorably reported the following bills:

S. 519, to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, with an amendment in the nature of a substitute;

S. 1905, to provide habitable living quarters for teachers, administrators, other school staff, and their households in rural areas of Alaska located in or near Alaska Native Villages, with an amendment in the nature of a substitute; and

S. 2843, to make technical corrections to laws relating to Native Americans, with amendments.

## TRIBAL LOBBYING OVERSIGHT

*Committee on Indian Affairs:* Committee held an oversight hearing on lobbying practices involving Indian tribes, focusing on the propriety of certain dealings and interactions, especially those relative to testimony and evidence in the pending matter In re Tribal Lobbying Matters, et. al., receiving testimony from Richard M. Milanovich, Agua Caliente Band of Cahuilla Indians, Palm Springs, California; and Bernie Sprague and Christopher Petras, both of the Saginaw Chippewa Indian Tribe of Michigan, Mount Pleasant.

Hearings recessed subject to the call.

# House of Representatives

## Chamber Action

**Measures Introduced:** 23 public bills, H.R. 5162–5184; and; 7 resolutions, H. Con. Res. 502–505, and H. Res. 806, 808–809 were introduced. **Pages H7863–64**

**Additional Cosponsors:** **Page H7864**

**Reports Filed:** Reports were filed today as follows:

S. 878, to authorize an additional permanent judgeship in the District of Idaho, amended (H. Rept. 108–708); and

H. Res. 807, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–709). **Pages H7862–63**

**Chaplain:** The prayer was offered today by Rev. Bobby C. Dagnel, Pastor, First Baptist Church in Lubbock, Texas. **Page H7737**

**Committee Resignation:** Read a letter from Representative Putnam wherein he resigned from the Committees on Agriculture, Government Reform, and Budget. **Page H7737**

**Committee Election:** Agreed to H. Res. 806, electing Representative Cantor to the Committee on Government Reform and Representative Putnam to the Committee on Rules. **Page H7737**

**Continuing Appropriations for the Fiscal Year 2005:** The House agreed to H.J. Res. 107, making continuing appropriations for the fiscal year 2005, by a recorded vote of 389 ayes to 32 noes, Roll No. 479. **Pages H7740–41, H7778–86**

Rejected the Obey motion to recommit the bill to the Committee on Appropriations with instructions to report the resolution back to the House promptly with amendments, by a yea and nay vote of 200 yeas to 221 nays, Roll No. 478. **Pages H7783–85**

H. Res. 802, the rule providing for consideration of the resolution, was agreed to by voice vote. **Page H7783**

**District of Columbia Personal Protection Act:** The House passed H.R. 3193, amended, to restore second amendment rights in the District of Columbia, by a recorded vote of 250 ayes to 171 noes and one voting "present", Roll No. 477. **Pages H7741–44, H7758–77**

Pursuant to the rule, the amendment printed in H. Rept. 108–707 was considered as adopted. **Page H7758**

H. Res. 803, the rule providing for consideration of the bill was agreed to by voice vote. **Pages H7758–76**

**Committee Appointment:** The Chair announced the Speaker's removal of Representative Boehlert from the Permanent Select Committee on Intelligence, and the appointment of Representative Blunt to that committee to fill the existing vacancy. **Page H7749**

**American Jobs Creation Act of 2004:** The House disagreed to the Senate amendment to H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, and agreed to a conference. **Page H7749**

Rejected the Neal motion to instruct conferees on the bill, by a recorded vote of 205 ayes to 215 noes, Roll No. 476. **Pages H7749–57, H7776**

Appointed as conferees: From the Committee on Ways & Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Representatives Thomas, Crane, McCrery, Rangel, and Levin. **Page H7777**

From the Committee on Agriculture, for consideration of title VII of the House bill, and subtitle B of title XI of the Senate amendment, and modifications committed to conference: Representatives Goodlatte, Boehner, and Stenholm. **Page H7777**

From the Committee on Education and the Workforce, for consideration of secs. 489, 490, 616, 701, and 719 of the Senate amendment, and modifications committed to conference: Representatives Boehner, Sam Johnson (TX), and George Miller (CA). **Page H7777**

From the Committee on Energy & Commerce, for consideration of sec. 662 and subtitle A of title XI of the Senate amendment, and modifications committed to conference: Representatives Barton (TX), Burr, and Waxman. **Page H7777**

From the Committee on the Judiciary, for consideration of secs. 422, 442, 1111, 1151, and 1161 of the Senate amendment, and modifications committed to conference: Representatives Sensenbrenner, Smith (TX) and Conyers. **Page H7777**

For consideration of the House bill and Senate amendment, and modifications committed to conference: Representative DeLay. **Page H7777**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

***Veterans Medical Facilities Management Act of 2004:*** H.R. 4768, amended, to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into certain major medical

facility leases, to authorize that Secretary to transfer real property subject to certain limitations;

**Pages H7790–96**

Agreed to amend the title so as to read: to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs. **Pages H7790–96**

***Commending the Festival of Children Foundation:*** H. Res. 759, amended, commending the Festival of Children Foundation for its outstanding efforts on behalf of children and expressing the support of the House of Representatives for the designation of a ''Child Awareness Month''; **Pages H7802–04**

Agreed to amend the title so as to read: commending the Festival of Children Foundation for its outstanding efforts on behalf of children. **Page H7804**

***Commemorating the 100th anniversary of the birth of William ''Count'' Basie:*** H. Res. 778, commemorating the 100th anniversary of the birth of William ''Count'' Basie; **Pages H7804–06**

***Amending the Federal Water Pollution Control Act:*** H.R. 4731, to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program; **Pages H7811–12**

***Authorizing the Board of Regents of the Smithsonian Institution to carry out activities in support of the VERITAS project:*** H.R. 5105, to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative VERITAS project on Kitt Peak near Tucson, Arizona; **Pages H7812–13**

***F.H. Newell Building Designation Act:*** H.R. 3124, to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the ''F.H. Newell Building''; and

**Pages H7813–14**

***Garza-Vela United States Courthouse Designation Act:*** H.R. 1402, amended, to designate a United States courthouse in Brownsville, Texas, as the ''Garza-Vela United States Courthouse''.

**Pages H7814–18**

Agreed to amend the title so as to read: to designate the United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, as the ''Reynaldo G. Garza and Filemon B. Vela United States Courthouse''.

**Page H7818**

**Suspensions—Proceedings Postponed:** The House completed debate on the following measures under suspension of the rules. Consideration will be completed tomorrow, September 30.

***Reauthorizing the Temporary Assistance for Needy Families block grant program:*** H.R. 5149, to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005; **Pages H7786–90**

***Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004:*** H.R. 4231, amended, to provide for a pilot program in the Department of Veterans Affairs to improve recruitment and retention of nurses; **Pages H7797–H7802**

***Honoring the life and work of Duke Ellington:*** H. Con. Res. 501, honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, congratulating Blue Note records on its 65th anniversary and Down Beat Magazine on its 70th anniversary, and supporting the annual Duke Ellington Jazz Festival; and **Pages H7806–08**

***Honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary:*** H. Res. 792, honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary.

**Pages H7808–11**

**Commission on Systemic Interoperability—Appointment:** Read a letter from the Minority Leader wherein she appointed Mr. Thomas M. Priselac of Los Angeles, California, to the Commission on Systemic Interoperability. **Page H7819**

**Senate Message:** Messages received from the Senate today appear on pages H7757.

**Senate Referral:** S. 2742 was referred to the Committee on the Judiciary. **Page H7850**

**Quorum Calls—Votes:** One yea and nay vote and three recorded votes developed during the proceedings of today. There were no quorum calls.

**Pages H7776, H7777, H7784–85, H7785–86**

**Adjournment:** The House met at 10 a.m. and adjourned at 12 midnight.

# *Committee Meetings*

## FARM CREDIT SYSTEM REVIEW

*Committee on Agriculture:* Subcommittee on Conservation, Credit, Rural Development, and Research held a hearing to review the Farm Credit System. Testimony was heard from Nancy C. Pellett, Chairman, Farm Credit Administration; and public witnesses.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

*Committee on Armed Services:* Ordered reported, as amended, H.R. 10, 9/11 Recommendations Implementation Act.

## POST-PREGNANCY DEPRESSION

*Committee on Energy and Commerce:* Subcommittee on Health held a hearing entitled ''Improving Women's Health: Understanding Depression After Pregnancy.'' Testimony was heard from public witnesses.

## EXAMINE—WIRELESS DIRECTORY ASSISTANCE POLICIES AND PROGRAMS

*Committee on Energy and Commerce:* Subcommittee on Telecommunications and the Internet held a hearing entitled ''An Examination of Wireless Directory Assistance Policies and Programs.'' Testimony was heard from Senator Boxer; and public witnesses.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT; MISCELLANEOUS MEASURES; APPROVED ISSUANCE OF SUBPOENAS REGARDING OFHEO REPORT CONCERNING FANNIE MAE

*Committee on Financial Services:* Ordered reported, as amended, following bills; H.R. 5011, Military Personnel Financial Services Protection Act; H.R. 4634, amended, Terrorism Insurance Backstop Extension Act of 2004; and H.R. 10, 9/11 Recommendations Implementation Act.

The Committee also approved a motion to issue subpoenas to certain individuals in conjunction with the Subcommittee on Capital Markets hearing entitled ''The OFHEO Report: Allegations of Accounting and Management Failure at Fannie Mae.''

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT; WHISTLEBLOWER PROTECTION ENHANCEMENT ACT

*Committee on Government Reform:* Ordered reported, as amended, the following bills: H.R. 10, 9/11 Recommendations Implementation Act; and H.R. 3281, Whistleblower Protection Enhancement Act.

## GLOBAL ANTI-SEMITISM REVIEW ACT; AFGHANISTAN: U.S. STRATEGIES ON EVE OF NATIONAL ELECTIONS

*Committee on International Relations:* Favorably considered the following bill and adopted a motion urging the Chairman to request that it be considered on the Suspension Calendar: S. 2292, amended, Global Anti-Semitism Review Act of 2004.

The Committee also held a hearing on Afghanistan: United States Strategies on the Eve of National Elections. Testimony was heard from Richard L. Armitage, Deputy Secretary of State.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

*Committee on the Judiciary:* Ordered reported, as amended, H.R.10, 9/11 Recommendations Implementation Act.

## MISCELLANEOUS MEASURES

*Committee on Resources:* Ordered reported the following bills: H.R. 855, amended, Arizona Water Rights Settlement Act; H.R. 5134, amended, To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes; and H.R. 5135, To provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands.

## MISCELLANEOUS MEASURES

*Committee on Resources:* Subcommittee on Forests and Forest Health held a hearing on the following bills: H.R. 977, Aerial Firefighter Relief Act of 2003; H.R. 1550, To authorize the Secretary of the Interior and the Secretary of Agriculture to make grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes, and other commercial purposes; H.R. 1723, Caribbean National Forest Act of 2003; and H.R. 4461, Walnut Canyon Study Act. Testimony was heard from Representatives Baird and Cubin; Elisabeth Estill, Deputy Chief, Programs, Legislation, and Communication, Forest Service, USDA; John Stewart, Biomass and Forest Health Program Manager, Office of Wildland Fire Coordination, Department of the Interior; and public witnesses.

## SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE CONCERNING SURFACE TRANSPORTATION EXTENSION

*Committee on Rules:* Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on the legislative day of September 30, 2004, providing for consideration of a bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT

*Committee on Science:* Subcommittee on Environment, Technology and Standards approved for full Committee action, as amended H.R. 4546, National Oceanic and Atmospheric Administration Act.

## MISCELLANEOUS MEASURES

*Committee on Transportation and Infrastructure:* Ordered reported the following bills: H.R. 5082, amended, Public Transportation Terrorism Prevention and Response Act of 2004; H.R. 5105, To authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona; H.R. 5121, amended, To further protect the United States aviation system from terrorist attacks; H.R. 5164, National Health Museum Authorization Act; H.R. 5163, Norma Mineta Research and Special Programs Reorganization Act.

The Committee also approved the following: GSA Fiscal Year 2005 Capital Investment and Leasing Program resolutions; and U.S. Army Corps of Engineers Survey resolutions.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

*Permanent Select Committee on Intelligence:* Ordered reported, as amended, H.R. 10, 9/11 Recommendations Implementation Act.

## NATIONAL INCIDENT MANAGEMENT SYSTEM

*Select Committee on Homeland Security:* Subcommittee on Emergency Preparedness and Response held a hearing entitled ''The National Incident Management System: Enhancing Response to Terrorist Attacks.'' Testimony was heard from Gil Jamieson, Acting Director, NIMS Integration Center, Department of Homeland Security; Chief P. Michael Freeman, Fire Department, Los Angeles County, California; and public witnesses.

# *Joint Meetings*

## AMERICAN JOBS CREATION ACT

*Conferees* met to resolve the differences between the Senate and House passed versions of H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, but did not complete action thereon, and will meet again.

## COMMITTEE MEETINGS FOR THURSDAY, SEPTEMBER 30, 2004

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Commerce, Science, and Transportation:* Subcommittee on Communications, to hold oversight hearings to examine the security of Internet Root Servers and the Domain Name System (DNS), 2:30 p.m., SR–253.

*Committee on Energy and Natural Resources:* to hold oversight hearings to examine issues related to low-level radioactive waste, 10:30 a.m., SD–366.

*Committee on Governmental Affairs:* Financial Management, the Budget, and International Security, to hold oversight hearings to examine Section 529 College Savings Plans, focusing on fees, disclosure, state tax treatment and broker sales practices, 10:30 a.m., SD–342.

*Committee on the Judiciary:* business meeting to consider pending calendar business, 9:30 a.m., SD–226.

*Committee on Veterans' Affairs:* to hold hearings to examine the nominations of Mary J. Schoelen, of the District of Columbia, and William A. Moorman, of Virginia, each to be a Judge of the United States Court of Appeals for Veterans Claims, and Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs for Human Resources and Administration, 2 p.m., SR–418.

### House

*Committee on Agriculture,* to consider the following bills: H.R. 3242, Specialty Crops Competitiveness Act of 2003; and H.R. 5120, U.S. National Arboretum Appreciation Act of 2004, 1 p.m., 1300 Longworth.

*Committee on Education and the Workforce,* Subcommittee on Employer-Employee Relations, hearing on H.R. 4343, Secret Ballot Protection Act of 2004, 10:30 a.m., 2175 Rayburn.

*Committee on Energy and Commerce,* Subcommittee on Environment and Hazardous Materials, hearing entitled ''Controlling Bioterror: Assessing Our Nation's Drinking Water Security,'' 12:30 p.m., 2123 Rayburn.

*Committee on Financial Services,* Subcommittee on Domestic and International Monetary Policy, Trade, and Technology and the Subcommittee on Oversight and Investigations, joint hearing entitled ''Combating International Terrorist Financing,'' 10 a.m., 2128 Rayburn.

*Committee on Government Reform,* Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, hearing entitled ''How Can We Maximize Private Sector Participation in Transportation?—Part II,'' 10 a.m., 2154 Rayburn.

Subcommittee on Government Efficiency and Financial Management, oversight hearing entitled ''Financial Management at the Department of Health and Human Services,'' 2 p.m., 2247 Rayburn.

*Committee on International Relations,* Subcommittee on Africa, to mark up H.R. 5061, Comprehensive Peace in Sudan Act, 3:30 p.m., 2172 Rayburn.

*Committee on the Judiciary,* to mark up the following measures: H.R. 4306, To amend section 274A of the Immigration and Nationality Act to improve the process for

verifying an individual's eligibility for employment; S. 1194, Mentally Ill Offender Treatment and Crime Reduction Act of 2003; H.R. 4547, Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2004; H. Res. 568, expressing the sense of the House of Representatives that Judicial determinations regarding the meaning of the laws of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such foreign judgements, laws, or pronouncements inform an understanding of the original meaning of the laws of the United States; H.R. 3143, International Consumer Protection Act of 2003; H.R. 4264, Animal Fighting Prohibition Enforcement Act of 2004; H.R. 775, Security and Fairness Enhancement for America Act of 2003; H.R. 4453, Access to Rural Physicians Improvement Act of 2004; and a private relief measure, 10 a.m., 2141 Rayburn.

*Committee on Resources,* Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on H.R. 4368, To transfer the National Oceanic and Atmospheric Administration to the Department of the Interior, 10 a.m., 1324 Longworth.

*Committee on Transportation and Infrastructure,* Subcommittee on Water Resources and Environment, oversight hearing entitled ''Are Citizen Suit Provisions of the Clean Water Act Being Misused?'' 10 a.m., 2167 Rayburn.

*Committee on Ways and Means,* Subcommittee on Social Security and the Subcommittee on Human Resources, joint hearing on the Commissioner of Social Security's Proposal to Improve the Disability Process, 1 p.m., 1100 Longworth.

*Select Committee on Homeland Security,* Subcommittee on Infrastructure and Border Security and the Subcommittee on Intelligence and Counterterrorism, joint hearing entitled ''Disrupting Terrorist Travel: Safeguarding America's Borders Through Information Sharing,'' 1 p.m., 210 Cannon.

*Next Meeting of the* SENATE

9:30 a.m., Thursday, September 30

Senate Chamber

**Program for Thursday:** Senate will continue consideration of S. 2845, National Intelligence Reform Act, and upon conclusion of debate on Warner Amendment No. 3781, Senator Graham (FL) will be authorized to offer the next amendment. Also, upon the conclusion of the first vote, Senator Byrd will be recognized for up to 20 minutes.

*Next meeting of the* HOUSE OF REPRESENTATIVES

10 a.m., Thursday, September 30

House Chamber

**Program for Thursday:** Consideration of H.J. Res. 106, Marriage Protection Amendment (closed rule).

Complete consideration of postponed Suspensions.

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