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House of Representatives

The House met at 10 a.m.

The Reverend Kevin Gormley, Pastor, St. Peter Church, Marshall, Missouri, offered the following prayer:

God, Creator of all life, we bow our heads and ask Your guidance to carry out the awesome responsibilities we have before us. May we be at peace among ourselves and at peace individually with the decisions we have made. As we serve here in the hallowed House, keep us aware that we have our family house demanding our time and attention.

We celebrate the 60th year since the end of World War II. President Harry S Truman, from my great State of Missouri, had to make tough decisions at a difficult time in our country's history. He started his presidency by making the prayer of Solomon his own prayer:

''God, give me the wisdom I need to rule Your people with justice and to know the difference between good and evil. Otherwise, how can I lead this great people of Yours?''

Father, may we who are leaders and all the leaders in this great Nation turn to You for guidance and listen to Your response as we seek a lasting peace in our troubled world. 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 gentleman from Nebraska (Mr. TERRY) come forward and lead the House in the Pledge of Allegiance.

Mr. TERRY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1235. An act to amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemembers and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 1786. An act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

INTRODUCING THE REVEREND FATHER KEVIN GORMLEY

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

Mr. SKELTON. Mr. Speaker, it is my privilege today to introduce to my House colleagues our guest chaplain, Father Kevin Gormley, pastor of the St. Peter Catholic Church in Marshall, Missouri. Father Gormley was born in Ireland and studied for the priesthood at All Hallows College and Seminary in Dublin. Following his ordination in 1964, Father Gormley came to the United States. Since that time, he has spent 41 years serving in the parishes of Central Missouri where he is widely known, highly respected, and very much loved. Father Gormley became an American citizen in 1975. In July, 2000, he became the pastor of St. Peter Catholic Church in Marshall, Missouri where he currently serves and resides.

Father Gormley also serves as pastor of Holy Family Church, Sweet Springs, Missouri, and as the administrator of St. Peter School. Father Gormley also serves the community as a member of the Ministry of Alliance and as the Catholic Chaplain for the Marshall Habitation Center.

I thank Chaplain Coughlin for his kind invitation to Father Gormley to offer the opening prayer, and would like to thank Father Gormley for traveling to our Nation's capital to be with us today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minutes on each side.

FISCAL RESPONSIBILITY

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

Ms. FOXX. Mr. Speaker, these past few weeks have tested our Nation's emergency response system, our compassion, and the Congress' ability to set spending priorities.

One thing is clear, Republicans are still the party of fiscal responsibility which has helped grow the economy and bolster jobs. In fact, over the past 2 years, our Nation has created millions of jobs, the unemployment level has dropped dramatically, and our economy has grown.

Like families, we make tough decisions. Over the past year, we terminated 98 programs which will save taxpayers over $4.3 billion. But given our new challenges, I am pleased that the House will exercise oversight of disaster expenditures to ensure that the funds are being spent properly by implementing several checks and balances: Sending investigators to the gulf to monitor disaster expenditures,

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convening dozens of hearings to hear from officials at all levels of government on how funds are utilized, and mandating weekly reports on expenditures, and conducting audits and investigation on disaster assistance.

While I hope we will do more to cut spending and provide accountability, we all know that the Democratic plan is simply to spend, spend, and spend some more.

EXPIRING MEDICARE PROGRAM NEEDS URGENT CONSIDERATION

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

Mr. KUCINICH. Mr. Speaker, I want to bring to the attention of the House a matter that really needs urgent consideration. There are 160,000 elderly and disabled Americans who depend on Medicare part B, a program called the QI program, qualified individual. That program is due to expire on Friday. That program, that benefit, pays Medicare part B benefits to people with incomes that are 120 percent to 135 percent of the Federal poverty level. How that translates is that people who are making less than $1,092 per month as an individual or $1,459 per couple, they are due to lose their benefit which, for some people, would be almost 10 percent of their income. The Medicare part B insurance program covers medical services like physician service, lab service, durable medical equipment, outpatient and home health visits. We have a bipartisan bill sponsored by myself and the gentleman from Ohio (Mr. LATOURETTE), H.R. 3800. We have to act in the next 24 hours to save the financial condition for 160,000 elderly and disabled Americans.

ENERGY SECURITY

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

Mr. PRICE of Georgia. Mr. Speaker, over the past several years, we have all gained firsthand experience on the effects of America's outdated energy system with gas prices going up and down. Atlanta, my home, has seen gas prices anywhere from $3 to $6 a gallon. The results of Hurricanes Katrina and Rita show all of us how terribly dependent we are on foreign sources of oil.

This is a large and complex issue and not a challenge easily solved. Our recently adopted new national energy policy will put us on the right track, but more is needed. It is critical that we address some of the systemic failures that have kept us dependent on others for energy and kept us from aggressively developing a reliable alternative source. While our economy expanded over the past decades, our ability to refine oil actually decreased. Since 1981, we have lost over half of our refineries. The most dynamic Nation in the world has not built a new refinery in 25 years. We are more dependent now on foreign oil than ever before.

We must move away from foreign fuel sources and move toward a solution that maximizes alternative fuel. Mr. Speaker, energy independence is not just energy security, it is national security.

MORE MONEY FOR GUARD EQUIPMENT NOW

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

Mr. DEFAZIO. Mr. Speaker, about 2 years ago, I traveled to Fort Hood, Texas, to see my Guard unit before their deployment to Iraq. I was surprised to see that they were using radios that their families had bought for them at a place called GI Joe's, a good store in Oregon in the Northwest. But the point is they did not have the equipment they needed, they could not train on the equipment they were going to use in Iraq, and now it turns out that that equipment is not available in the United States of America to the National Guard.

Yesterday, Lieutenant General Steven Blum, chief of the National Guard Bureau, said he has about 34 percent of what is needed for the National Guard for equipment for homeland security, for emergencies, disasters or terrorist attacks. Thirty-four percent. He has radios, he said, that cannot communicate with the Army radios because they are Korean War vintage radios. This is an embarrassment for this country. This administration must give the Guard the tools it needs. We don't have to talk about a bigger role for the active duty military. We need to give the National Guard, who does not have problems with posse comitatus and other things, who performed admirably in this disaster, the tools they need for future disasters.

More money for Guard equipment now.

HURRICANE SAFETY ON THE CAPE VINCENT AND CAPE VICTORY

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

Mr. POE. Mr. Speaker, as the howling winds and incessant rain from the ''Lady of the Gulf—Rita'' moved closer to southeast Texas, 90 percent of the population in my district evacuated, but the first responders in Beaumont and other towns were worried about where to ride out the looming summer storm and potential floods.

Docked in the Port of Beaumont were the Cape Vincent, helmed by Captain David Scott, and the sister ship Cape Victory, with Captain Kevin Brooks. These two massive vessels transport military cargo to Iraq and Afghanistan.

The captains and the mayor, Guy Goodson, met briefly. The plan: Use the ships. The ships were loaded with first responders and police cars, fire trucks, ambulances, city dump trucks, front end loaders and even police helicopters. The expert ship crews coolly but quickly took little time in safely securing our first responders and their equipment. Tugs in the port operated during the howling hurricane winds to secure the ships.

In this operation, there was no senseless red tape, no forms were filled out, no committees met, and no permission from bureaucrats was sought. The people of Texas appreciate Captain Brooks and Captain Scott and their crews for, as we say in Texas, ''Gittin' 'er done.''

GAMING INDUSTRY AND TAX BREAKS

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

Ms. BERKLEY. Mr. Speaker, when Hurricane Katrina hit the gulf coast, homes and businesses were destroyed and people were left with nothing. To help those in Louisiana and Mississippi return home and go back to work, the gulf coast region must be rebuilt. The gaming industry will invest billions of dollars as it rebuilds the gulf region, making it an essential part of restoring employment, economic growth and tax revenue. Congress must not withhold incentives to rebuild from any employer that provides good jobs and tax revenue if we want to revive the economy of this region.

There is a movement in Congress led by the self-righteous anti-gaming police to single out the gaming industry and prohibit it from receiving needed tax incentives to rebuild. I did not see any Members of Congress, and certainly not FEMA officials, handing out paychecks to out-of-work employees in the gulf coast region. I did see CEOs of gaming companies standing there in the muck up to their ankles handing out checks to their employees.

Contrary to the biased view of some, the gaming industry should be fairly and equally like any other business when Congress develops legislation to help rebuild this region. The gaming companies remain committed to the communities and the people in the affected regions.

□ 1015

IMMIGRATION REFORM

(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, we need comprehensive immigration reform. Specifically, we need reform to support those who enforce our laws, instead of rewarding those who break them. The United States may need a temporary worker program, but definitely not an amnesty program. Our immediate need is more border patrol agents and diligent cooperation from local and State law enforcement agencies.

The repercussions of poor immigration enforcement have a ripple effect across our entire Nation; and, indeed, an estimated 376,000 illegal immigrants are putting a tremendous financial strain on my State of Georgia. Every day we put off debating and passing comprehensive reform allows more opportunities for illegal immigrants to break our laws and cross our borders.

Mr. Speaker, illegal immigration is not a victimless crime, and I request my colleagues' support for real immigration reform.

QUESTIONING OF THE RESPONSE TO HURRICANE KATRINA AND HURRICANE RITA

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask to remove my name from H.R. 3824 if the report has not yet been filed. If it has been filed, I would ask that it be placed in the RECORD that if the manager's amendment is not approved, I will be voting ''no'' on H.R. 3824.

Let me say, Mr. Speaker, I also want to add to the questioning of the response dealing with Hurricane Katrina and Hurricane Rita. I think it is imperative that committees of the House, particularly the Committee on Homeland Security, move forward with questioning how those who were in desperate need were responded to and how the chain of command performed.

The question was always who was in charge. I raise the question as well, whether there was sensitivity or sensibilities in contracting with the cruise line, $246 million, to house individuals who had already been in water beyond belief. I would ask that that be investigated because those cruise ships are now sitting empty, and we are paying $1,000 a week for empty cruise ships.

ADVERSITY REVEALS CHARACTER

(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, a determined enemy abroad, catastrophe and political upheaval at home, these are times, as Thomas Paine wrote, that try men's souls.

But adversity does not create character. Adversity reveals character; and like the great Nation we serve, the character of this Republican majority under Speaker Dennis Hastert is strong, courageous, and will do the work the American people sent us here to do.

We will support the war on terror through to victory. We will rebuild our coastline with fiscal responsibility. We will close our borders and end our dependence on foreign oil. We will do this because the character of this Congress reflects the character of America, and that character is strong.

AMERICAN PARITY

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

Mr. EMANUEL. Mr. Speaker, I find the debate over how we are going to pay for the reconstruction and revitalization of the gulf coast ironic because in the past few years this body has allocated nearly $400 billion for the war in Iraq, without a peep, just a rubber-stamp Congress.

We have added $3 trillion to our national debt with annual deficits at $400 billion as far as the eye can see.

This has become the Congress known for hot checks. Yet when this Congress faces a tab for rebuilding America and American lives that is less than half of what we have spent in Iraq, suddenly everyone here is wearing green eye shades.

In Iraq, we have spent millions to rebuild the Sweet Water Canal System, rebuilding and repairing the levee system; and here in America, we cut the levee construction down in Louisiana by 80 percent.

Tuesday's Christian Science Monitor reported that the National Guard's response to Katrina was hampered by a lack of equipment because two-thirds of that equipment is in Iraq.

We need a new direction with new priorities. We need a Congress that is going to put some checks and balances and not act like a rubber stump.

In the coming weeks, I intend to reintroduce the American Parity Act, a bill to ensure that, as we rebuild Iraq, we ensure that we also rebuild America.

This Congress cannot have one set of books, one set of priorities for Iraq, and another one for the American people.

PROVIDING FOR CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 470 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 470

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed ninety minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Resources now printed in the bill, it shall be in order to consider as an original bill an amendment in the nature of a substitute consisting of the text of the Resources Committee Print dated September 26, 2005. That amendment in the nature of a substitute shall be considered as read. All points of order against that committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. TERRY). 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 470 is a rule providing for consideration of H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005. The rule provides for 90 minutes of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Resources and waives all points of order against consideration of the bill.

House Resolution 470 provides that, in lieu of the amendment recommended by the Committee on Resources now printed in the bill, the amendment in the nature of a substitute consisting of the text of the Committee on Resources print dated September 26 shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute.

House Resolution 470 makes in order only those amendments printed in the

Committee on Rules report accompanying the resolution. The rule provides that amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Lastly, the resolution waives all points of order against amendments printed in the report and provides one motion to recommit, with or without instruction.

Mr. Speaker, the Threatened and Endangered Species Recovery Act is one of the most important bills we will consider on species recovery and property rights this year. I commend the gentleman from California (Chairman POMBO) and other members of the Committee on Resources and their staffs who have worked hard to bring this legislation to this point. The result of their efforts is a solid bipartisan bill that updates key parts of the Endangered Species Act and provides enhanced protection for property owners.

For people of the rural West where I live, there are few more important matters than modernization of the ESA. Unfortunately, some of the most well-known examples of the ESA problems have occurred in my region of the country, the Pacific Northwest.

For example, Mr. Speaker, the Northwest timber industry was decimated by the listing of the spotted owl 15 years ago, only to discover that today, the spotted owls have actually been endangered and displaced by other owls. Imagine if we had emphasized recovery then. How many family-wage jobs would have been saved and how many more spotted owls would we have today?

Four years ago, water to family farms in the Klamath Basin in Oregon was cut off in the name of the sucker fish, when everyone knew there were other measures that would truly help species recover without bankrupting businesses and families. Every summer, in excess of $3 million is being spent per listed salmon. Mr. Speaker, let me repeat that. Every summer in excess of $3 million per salmon is spent to spill water over dams, even though science and common sense tells us that there are better ways of species recovery.

This is all the result of the Endangered Species Act becoming too driven by litigation and conflict. Simply put, this act is broken, and it is in need of updating.

If we put off modernizing the ESA, it is not just the people of my region that will suffer. It is also the animals and plants that the ESA is supposed to protect that are the victims. ESA's record of recovery of listed species is abysmal. Less than 1 percent of the species listed under the act have actually been recovered. According to the Fish and Wildlife Service, only 6 percent of the species are categorized as recovering. Each year, Federal agencies are spending more on paperwork, process, court cases, and lawyers and less on real on-the-ground recovery efforts. We, frankly, must reverse this trend.

The Threatened and Endangered Species Recovery Act puts the priority where it should be, on recovery. This bill will require agencies to complete recovery plans within 2 years of listing. These plans will require the identification of lands important for species recovery, in lieu of the cumbersome and litigation-driven critical habitat process.

In addition, the bill authorizes collaborative recovery teams made up of a diverse group of stakeholders, including people with conservation expertise as well as those whose livelihoods are affected by environmental policies. Again, there is a fundamental shift here from confrontation and litigation to cooperation and recovery. It is long overdue.

This legislation also offers important new tools for encouraging voluntary participation in species recovery efforts by private property owners. The ESA is currently written with its emphasis on punitive measures and regulation serves as a disincentive for any private property owner to provide habitat for a listed species.

This legislation provides ''no surprises'' protections for land holders entering into habitat conservation plans with the government. In addition, this bill offers financial aid to those whose property has been restricted for conservation purposes. After all, species recovery is a national goal that benefits all Americans, and the cost of that effort should not fall solely on the shoulders of land holders.

Another important improvement in the ESA that this bill would provide is strengthening the science and data used in decision-making. This legislation puts the emphasis on objectively quantifiable and peer-reviewed science. Stronger science and ESA information will result in our limited Federal resources going to where they will do the most good, while reducing instances of drastic Federal actions being taken on poor or limited data. These are the things that we should all be able to agree upon.

H.R. 3824 is a solid bipartisan bill that will do much to bring this important law up to date. I again commend my colleagues for their hard work on this legislation, and I urge my colleagues to support both the rule, House Resolution 470, 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 may consume.

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

□ 1030

Mr. MCGOVERN. Mr. Speaker, today, this House stands at a very important crossroad. We are faced with a decision that will have severe consequences for years to come. On one side, we have this bill, the Threatened and Endangered Species Act, facing off on the other side against sound, science-based environmental policy.

The Republican leadership had a unique opportunity to provide us with a carefully constructed bill, one that strengthens current protections for endangered species while also finding the necessary balance between property rights and environmental concerns. But, instead, the bill that we have before us essentially guts the Endangered Species Act. It is as simple as that, and it certainly comes as no surprise.

In 1994, many Republicans were elected to this body promising to repeal the Endangered Species Act. There are dozens of news stories describing rallies and press conferences held by opponents of the Endangered Species Act. For many who now sit on the Committee on Resources, including the distinguished chairman, eliminating the Endangered Species Act was almost a singular campaign issue. Ten years after the Republicans took control of the House, they may be one step closer to repealing one of the most successful environmental laws in the history of the country.

Dismantling the Endangered Species Act has also been a top priority of the Bush administration. One of the sad realities of the Republican control of our government is their absolute contempt for the environment. Since they have taken control of the Congress, they have been rolling back environmental protections nonstop. This bill, unfortunately, falls into that tradition.

Make no mistake about it, Mr. Speaker, this bill is not about fixing the Endangered Species Act, it is about gutting it. In fact, just months ago, legislation was drafted and subsequently circulated by the Chair of the Committee on Resources that would have completely eliminated endangered species protections over the next 10 years. Fortunately, that bill failed to ever come before the committee for consideration.

Instead, here we are with their next best thing, or should I say the next worst thing, H.R. 3824. While this legislation does not go as far as to formally repeal the Endangered Species Act, it burdens the current system with a weakened mandate, limited funding, and minimal protections.

Now, let us be clear about what we are debating here today. The bill before us is a major first step toward complete elimination of the Endangered Species Act. For proof, we only have to look at the Endangered Species Act itself. Over 30 years ago, the Endangered Species Act was signed into law by President Richard Nixon, and in the years that followed, it became renowned as one of our Nation's most

successful, effective, and vital conservation laws.

The Endangered Species Act alone has been credited with saving hundreds of species from extinction, most notably the Florida manatee, the California condor, and the bald eagle. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act remain on the planet today.

The current Endangered Species Act did this by banning hazardous pesticides, like DDT; protecting natural habitats and instituting and enforcing a science-based decision-making process. But the benefits of the Endangered Species Act extend far beyond protections for any one or group of endangered plants or animals. In fact, there are clear economic benefits to this law.

Each year, hunting, fishing, and wildlife watching bring in over $100 billion in revenue. These industries alone employ 2.6 million people each year. For example, the reintroduction of the gray wolf into Yellowstone National Park 10 years ago increased revenues in adjacent local communities by $10 million annually. Imagine the impact the bill before us could have on local economies that depend on recreation and ecotourism for jobs and tax revenues. It could be devastating.

H.R. 3824 takes us back to the bad old days and completely repeals protections against the use of hazardous pesticides, and removes one of the most important parts of the Endangered Species Act, the protection of critical habitat. No alternative is provided, and in the end, the U.S. Fish and Wildlife Service is left in an unenforceable and nonbinding mandate.

Finally, Mr. Speaker, this bill creates an endless slush fund for private developers. This is one of the most shocking proposals I think I have seen. We do not pay power plants not to violate clean air laws, nor provide incentives for businesses to comply with the minimum wage standards. But under this bill, we would pay landowners to not break the law.

What is the cost of this sweetheart deal? According to the Congressional Budget Office, the full price tag of this deal could reach $2.7 billion over the next 5 years. That amounts to an additional $118 million in the first year alone.

So contrary to what the proponents of H.R. 3824 will say today, this is really a new entitlement for developers and other business interests. It allows direct spending that will not only be expensive, but will drain the resourses from other important environmental programs.

With the largest deficit in American history, with mounting costs from the recent hurricanes, and with the war still raging in Iraq and Afghanistan, is this the right time to open a slush fund that will funnel millions of dollars to developers and businesses, while undoubtedly resulting in the extinction of unique animals and habitats across this country?

I hope that my colleagues on both sides of the aisle will take a close look at this legislation and recognize it is not our only option.

Yes, the Endangered Species Act could benefit from revisions. Everybody will agree with that. But this bill is not the answer. And it is for this reason that I would urge my colleagues to support the Miller-Boehlert substitute, and I commend my colleagues for their hard bipartisan work.

Together, they have drafted a substitute that protects private landowners from unnecessary government regulation while also preserving current initiatives that have proven successful. On a smaller scale, a similar approach has been overwhelmingly successful in my home State of Massachusetts. In 1985, the piping plover, a small shore bird, was in steep decline. There were approximately 130 pairs remaining in the United States. But in just 14 years, they have made a dramatic comeback, and this was largely the result of coordinated efforts between conservationists and private land managers.

Mr. Speaker, I am not the only one who feels this way about H.R. 3824. Environmental and animal rights groups strongly oppose this bill, and so do many of the Nation's leading editorial pages: The New York Times, The Boston Globe, The Los Angeles Times, The Seattle Post Intelligencer, The Idaho Falls Post Register, to name a few, all oppose scrapping the Endangered Species Act. But I want to read from the hometown newspaper of the first President Bush and the gentleman from Texas (Mr. DELAY), The Houston Chronicle:

''After 32 years of success, the Endangered Species Act may need streamlining and adjustment to the realities of the continued development of rural areas of the country. It should not be destroyed and replaced with a law that would give all the advantages to business interests and allow the Secretary of the Interior to play God with the Nation's biodiversity.''

The Miller-Boehlert amendment is proposed to modernize responsibly the Endangered Species Act. It is clear that times have changed since President Nixon signed this bill into law. But the challenge is to update the Endangered Species Act responsibly, and H.R. 3824 does not do that. A vote for this bill is a vote to repeal the Endangered Species Act. A vote for this bill is a vote to once again threaten national treasures like the bald eagle, the grey wolf, the Florida manatee, and the piping plover with extinction, and I would urge my colleagues to oppose this bill.

Mr. Speaker, I submit herewith for the RECORD the editorial I quoted from earlier:

AN ENDANGERED ACT

[From the Houston Chronicle, Aug. 12, 2005]

Since President Richard Nixon signed it in 1973, the Endangered Species Act has prevented the extinction of hundreds of species of American plants and animals, restoring many to sizable populations. In the process of designating 1,370 species eligible for protection, the act also has generated court battles by opponents who chafed at restrictions on commercial development of essential habitat.

Backed by land development and agricultural interests, as well as the Bush administration, several members of Congress are pushing legislation that would gut what some consider the most important environmental law in U.S. history. U.S. Rep. Richard Pombo, R-Calif., who chairs the House Resources Committee, has offered a draft bill that would replace the Endangered Species Act and cancel all agreements to protect threatened species.

Environmentalists charge that Pombo's bill eliminates any provision to help species recover from near extinction and effectively forbids the designation of critical habitats on virtually all federal land. The existing law requires that species be protected if they are endangered in a significant portion of their range. Pombo's draft narrows that requirement to species threatened throughout their range.

This month the U.S. Fish and Wildlife Service adopted similar reasoning when it proposed the removal of the pygmy owl in Arizona from the list of threatened species because healthy populations exist in Mexico. Under President Clinton the agency had proposed designation of 1.2 million acres in the state as critical habitat. Under the Pombo standard, animals such as the grizzly bear, bald eagle and timber wolf, with large populations in Alaska, would not have qualified for protection in other parts of the United States.

Polls consistently have found that Americans strongly support the act's protections for threatened wildlife. The Supreme Court recently refused to hear a challenge to enforcement of the act brought by developers in a dispute involving the endangered Kretschmarr Cave mold beetle in Texas.

Pombo's bill would allow the secretary of the interior to determine what scientific evidence is relevant in deciding if a species is endangered and give the secretary the power to overturn decisions by federal biologists and wildlife managers. It would saddle agencies with massive paperwork and create an appeals process that could be launched by any person affected by an agency decision or habitat conservation plan.

After 32 years of success, the Endangered Species Act may need streamlining and adjustment to the realities of the continued development of rural areas of the country. It should not be destroyed and replaced with a law that would give all the advantages to business interests and allow the secretary of the interior to play God with the nation's biodiversity.

When Congress returns from its summer recess, Texas representatives and Sens. Kay Bailey Hutchison and John Cornyn should insist that any changes to the Endangered Species Act be aimed at improving its effectiveness. Texans are justly proud of the vast array of wildlife that thrives in protected forests, mountains and marshes across the state. Let's make sure that natural treasure is preserved for the benefit of future generations.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. BISHOP), a valued member of the Committee on Rules.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased that both sides of the aisle

have recognized the need of some modifications in the Endangered Species Act.

I would like to, Mr. Speaker, introduce you to a man by the name of John Gochnauer. John Gochnauer was the shortstop for the Cleveland Indians in 1902 and 1903. In 1902, playing full-time at shortstop for the Indians, he hit a paltry .185 and committed a whopping 48 errors in that position. Nonetheless, he came back the next year to play for them in 1903, where he once again, full-time player, hit .185, and this time set a major league record, which has yet to be broken, of committing 98 errors as shortstop, which means out of every five times, he touched the ball, he booted or threw it away once.

The Endangered Species Act has established 1,300 species for preservation and has been able to preserve 12 of them, giving that act a batting average of .010, if you round up. Whereas John Gochnauer hit .185, the Endangered Species Act is hitting .009, which means the Endangered Species Act is the most inept program we have in the Federal Government. The Endangered Species Act is the John Gochnauer of Federal programs.

The reason is quite simple. The Endangered Species Act creates more harm than it does good. Because if you are a good steward of the land, your practices which create and preserve habitat make you then open to government control and government regulations and produce an attitude of distrust and hatred.

The Endangered Species Act is not there to prevent development or to change land use. It actually penalizes the practices that help in the process, which is one of the reasons why this bill before us recognizes that, and especially in 13(d), a section that is in the bill but not in the substitute. It is there to provide grants to encourage cooperation to solve the problem, not to encourage people running away from the fear of the Federal Government's control.

I think that is probably one of the reasons why this bill is one of those unique bills to come before this body in which a majority of both parties in committee voted to support this particular bill. This bill is indeed one of modifications. It is a modification.

I want to introduce you to one other person. I will call him Jim, simply because I do not want to give the full name. Jim should today be a middle-aged person with a family, running a business, and living a healthy life in California. But in 1995, in California, there was a levee that was in need of repair. On that levee they found 43 bushes. The bushes were not part of the Endangered Species Act, but a beetle who could potentially live in those bushes was, even though no beetle was found in those 43 bushes that grew up on that levee after it was built. Nonetheless, a mitigation plan was mandated, even though the directors of the levee said that it would weaken the levee. Sure enough, 1 year later, that levee broke. Five hundred homes were destroyed and three lives were taken, including Jim's.

Mr. Speaker, the record of the Endangered Species Act over the decades here has been one of jobs lost, of property restricted, of homes destroyed and, sadly, of human lives lost. That is why it desperately needs modification. The bill before us does that type of modification.

Mr. MCGOVERN. Mr. Speaker, I appreciate the comments of my colleague on the Committee on Rules, the gentleman from Utah, but he uses statistics very selectively.

Let me cite a more important statistic, and that is more than 1,800 species currently protected by the Act are still with us. Only nine have been declared extinct. That is an astonishing success rate of more than 99 percent. So this has been a successful Act.

I will also provide for the RECORD an article that appeared in the Salt Lake Tribune by Ben Long, who is a contributor to the Writers on the Range, a Service of High Country News, who has written a great article about how the Endangered Species Act succeeds with flying colors.

[From the Salt Lake Tribune, Sept. 24, 2005]

SPECIES ACT SUCCEEDS WITH FLYING COLORS

(By Ben Long)

The Endangered Species Act—which is being reviewed by Congress this week—is a soaring success. Just look up.

Look skyward for a while and you might spy an American bald eagle. Hundreds of them live in my home state of Montana. Across the United States, the bald eagle is a living, flying example of what works about the Endangered Species Act.

Rep. Richard Pombo, R-Calif., is spearheading the effort to change the landmark, 30-year old anti-extinction law. ''The act isn't working to recover species now,'' Pombo said in a recent speech in Washington state. ''At the same time it has caused a lot of conflicts.''

Pombo evidently spends too much time inside his stuffy Washington office. If he got out in the forests and rivers more, he might know the story of the bald eagle.

The American symbol was listed as endangered in 1978. That year, surveys turned up only 12 bald eagle nests in all of Montana. Then, environmental laws such as the Endangered Species Act and a federal ban on the pesticide DDT kicked in. They protected the birds from chemical poisoning, destruction of habitat and needless, wasteful killing.

The results were gradual, but dramatic. By 2005, the number of bald eagle nests in Montana multiplied to 300 nests—25 times the number before the bird was included on the endangered species list.

That's just one state. Eagles were similarly successful in other states as well. In 1999, the bald eagle's status was upgraded from ''endangered'' to ''threatened.'' If trends continue, they will soon be officially recovered and all America will celebrate.

Today, Montana is one of the top 10 eagle-producing states in the United States. In a recent winter, I watched more than 30 eagles clean up a carcass in a rancher's back pasture. Bald eagle congregations have been tourist attractions at places like Canyon Ferry and Libby dams, where they feed on fish in the winter.

No matter how many times I see a bald eagle on the wing, I am taken aback by its beauty—and thankful for the Endangered Species Act.

Conflicts over endangered species make headlines. Success happens in quiet obscurity. But over time, the successes are dramatic indeed.

Gray wolves are another Endangered Species Act success story in the northern Rockies. Wiped out by over-zealous predator control a century ago, wolves began trickling back into Montana in the 1980s. Now, there are hundreds of wolves in western Montana, and more in neighboring Idaho and Wyoming.

Because Montana stepped up to the plate and agreed to manage these animals for the future, the federal U.S. Fish and Wildlife Service recently handed wolf management over to the Montana Department of Fish, Wildlife and Parks. This is evidence of the flexibility built into the law.

While I don't like to see any animal needlessly wasted, I respect that ranchers need to protect their stock to make a living. The Endangered Species Act has allowed wildlife managers to kill problem wolves—even wipe out entire packs that made a habit of killing livestock.

We humans now dominate planet Earth. We share a responsibility not to push species into extinction. For 30 years, the Endangered Species Act has helped keep America the rich and beautiful land we love. My 17-month-old son loves watching finches and chickadees at the feeder outside our kitchen window. He will grow up also watching bald eagles, some perching on a snag close to our backyard.

What a change. When I was a kid, the only eagle I ever saw was on the back of a quarter.

Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, there are some seeds for potential bipartisan agreement. We do need to reauthorize, update, and improve Endangered Species Act. I think there is some fair consensus on that. But we also do not want to go to a time where we have the next passenger pigeon, for instance, where we extirpate a species forever. That is a long time. I wore my eagle tie today in the hope that we will continue to protect the bald eagle, the symbol of our country.

There are some serious problems with the bill that was unveiled last week, hastily pushed through the Committee on Resources, and further changed last evening by a manager's amendment which few have seen. Among them, and one that has to give pause to this body as we wrestle with how we are going to pay for Hurricane Katrina and other essential things here, and how much money is being borrowed in the name of future generations, is a section regarding compensation.

Now, I had hoped to offer an amendment to say that we would compensate people for foregoing the usual historic and accustomed use. If you grow timber and you cannot cut the trees, you get compensated for the trees. If you ranch and you cannot graze the cattle, you get paid the value of the area on which you cannot graze your cattle. If you grew a crop and there is some sort of restriction and you cannot grow that crop, then you would be compensated.

But the bill goes so far beyond that, it is extraordinary. It goes to speculative, proposed, possible, potential use. This is going to create a wonderful new market for speculators. If people across America thought that this was going to become law as written, which it will not, it will be changed dramatically after the Senate acts, if they do act, they would be out right now purchasing, on a speculative basis, or getting options on property that in any way was restricted by the Endangered Species Act. Because they could say, well, it is true that was a tree farm, but actually I was going to build a destination resort on that tree farm. And my destination resort would have provided me with a profit of $1 million a year for the next 30 years. Please pay me $30 million. And the government has 180 days to come up with that money.

Now, there is a low-ball estimate for this new entitlement, and who knows how they came up with it, but they are saying, oh, no, it will only be $5 million to $10 million a year. Come on, only $5 million to $10 million a year? This is going to be hundreds of millions, if not billions a year of a new entitlement. And, remember, the compensation is in an amount no less than the fair market value.

□ 1045

So taxpayers are going to be obligated to borrow money for speculative, possible potential future profits, and maybe even a little on top of that because the Secretary cannot compensate less than the fair market value. It does not say that the Secretary is restricted to the fair market value; if the Secretary feels generous, borrow more money and pay more than the fair market value. It is binding only on the Secretary as I understand in the new manager's amendment.

So the taxpayers are on the hook; but if the property owner says my speculative value was $2 million profit a year for the next 30 years, then that person could go to court. But the government could not go to court to say wait a minute, this is crazy, you really were not going to make $2 million a year on a destination resort on that tree farm. We will compensate you for the loss of harvest of the trees, but we are not going to pay for that speculative value.

I cannot believe that any Member of this House is going to open the doors to the Treasury so wide for potential speculation. That is not compensating landowners for usual, historic, and customary use. If that amendment had been allowed, I think many more Members could support this bill; but that amendment was not allowed here in the House of Representatives today.

There will be only one substitute and a manager's amendment, no other amendments are allowed. This is a perfect bill. After all, it was just introduced last week. It had no hearings. It was marked up one day in committee, and now it has been changed further by a manager's amendment last night which no one has seen. It is a perfect bill, and no amendment should be allowed here on the floor, but we are going to put the taxpayers on the hook for billions of dollars.

Mr. HASTINGS of Washington. Mr. Speaker, I would advise the gentleman from Oregon that his amendment during the markup in the Rules Committee was not offered by either side to be voted on.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science.

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

Mr. BOEHLERT. Mr. Speaker, to my distinguished colleague from Utah for whom I have great respect, I point out that the infield for the Cleveland Indians has improved significantly since his reference. In fact, at shortstop they have a very able player, and they are hot in the middle of a pennant race. That assurance to the gentleman is very important, as is this assurance: both bills offer landowners technical assistance, but it is only the bipartisan substitute that allows the Secretary to give priority to smaller landowners who cannot afford expensive consultants.

Having said that, I rise in strong support of the rule and in strong opposition to the base bill which we hope with a substitute, the bipartisan substitute, to improve substantially and make it a product worthy of the support of the entire House.

But, frankly, we should not be having this debate today. The current version of the bill was not available until Monday afternoon. Everyone concerned with endangered species both inside and outside of government has been scrambling to understand what is H.R. 3824. The Congressional Research Service, a bunch of outside groups that we look to for some advice and counseling, they are scrambling. There has not been enough time for Members to fully digest the bill or work out any differences. I do not think that it should go forward in this manner. There is no reason for this rush except to limit discussion and maybe confuse us as we try to understand the full implications.

The other body is not exactly about to rush to judgment with a measure on the floor. We should not be dealing with the most fundamental rewrite of an environmental statute in 15 years in this manner. There are so many areas of agreement that we have, let us find common ground. I urge opposition to the base bill and strong support for the bipartisan substitute amendment.

Mr. McGOVERN. Mr. Speaker, just for the record, I want to make it clear that the gentleman from Oregon did offer his amendment before the Committee on Rules. It was amendment No. 5 last night. Again, we believe his amendment should have been made in order.

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

Ms. WOOLSEY. Mr. Speaker, this bill represents a new low. Wasteful drilling in the Arctic and dismantling the Clean Air Act are bad enough, but now the Republican majority wants to weaken the Endangered Species Act, weaken it by handing out subsidies to oil and gas companies and land speculators for not killing endangered species, meaning taxpayers will be giving money to these land developers for simply following the law or for taking a risk by making a big investment in land so they can sell it at a higher price.

What next? Will taxpayers be asked to foot the bill to pay companies to follow other laws of the land?

Mr. Speaker, I know we can do better. Protecting our endangered species is never easy, but if we do not do it right, if we do not depend on sound science, if instead we yield to greed and politics, there is no second chance. I urge my colleagues to vote against the bill and protect the environment for our children and their children and vote for the bipartisan substitute.

Mr. HASTINGS of Washington. Mr. Speaker, for clarification, I acknowledge that the gentleman from Oregon sent his amendment to the Committee on Rules. My point was during the markup of the rule, there was no attempt on the other side to amend the rule to make his amendment in order.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST), a member of the Committee on Resources.

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

Mr. Speaker, I am in strong support of this rule. I also want to compliment the chairman of the Committee on Resources. He has been in Congress for seven terms. He has worked very hard on the things that he believes in. He has been relentlessly patient to deal with a number of issues that have affected his district and those in the western areas of the United States, and he has presented to us today a bill that will reform, refine, and reauthorize the Endangered Species Act.

Now, I do not agree with everything in the chairman's bill or his approach, but I want to state here this morning that I respect his courage and his relentless patience to take years to bring something to the floor that he believes in.

The substitute which I support, and I hope my colleagues in this body will support, is not a whole lot different than the base bill. We went through the base bill hour after hour after hour, members and staff; and we changed a few words here and there that we feel will present the approach to protecting endangered species in the appropriate way. Most people who are concerned about the Endangered Species Act either are concerned because, like the

chairman here from the Committee on Rules stated this morning, if you see a dam and it creates deep water and you can get your barges down with your grain, you appreciate the fact that the dam is there. So you have some concern about that.

Or if you are downstream and you want more coho salmon and you believe the dam is degrading the habitat for coho salmon or other species of salmon, you are less likely to appreciate the dam; but both sides look at the Endangered Species Act as either reducing their economic viability or reducing species viability. I think we need to do a number of things that we have done in the substitute. We have taken the words out of the base bill. We create a scientifically acceptable procedure, look on page 2 of the substitute, methods, practices and procedures that are acceptable science.

We have made a requirement for making a determination for what species are listed. Look at page 4 of the substitute, five specific criteria before you can list that species. We are reviewing all species every 5 years to see if the change of status is there, page 5. We repeal the critical habitat requirement in the base bill and replace it with a slightly different recovery plan.

The recovery plan has a number of significant and important elements: a time frame for that recovery plan; objective measurable criteria; a description of where the site should be, and the emphasis is on Federal land and not private land; and an estimate of the cost and time it will take to recover that species. Look on page 20.

There are a number of changes that we have made here to the gentleman from California (Mr. POMBO) which I think improves on the bill. Support the substitute.

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

Mr. BLUMENAUER. Mr. Speaker, I rise in strong opposition to both the rule and the bill. No matter how the proponents of the bill classify putting soft words and talking about it being reasonable or a compromise, it does not make it so. This is less about reform of the ESA and protecting species, and more about making it easier for the exploitation of the environment.

We have been in a state of stalemate for a number of years because the goal has not been reasonable refinement. There are things we could do right now to make the Endangered Species Act more efficient, more effective, for instance, adequately funding the enforcement and conservation mechanisms. But the goal was not modest reform and improvement; it was a radical adjustment.

The batting average analogy of my friend from Utah simply misses the point. It is not about just the species that have been restored. It is the protection that has been extended across America to make it possible that we are not losing environmental ground, and given the environmental circumstances, that is no easy task.

I have literally watched it work in my own backyard. I have an urban creek that flows 26 miles through the heart of my congressional district. The salmon listing under the Endangered Species Act prompted action by four local cities and two counties. We were able to come forward with an innovative streamlining agreement to meet the standards necessary to comply with the Endangered Species Act and move quickly through the permitting process. We have been able to make progress. I have seen it work when people are committed to doing so.

There are many troubling aspects of this legislation. Putting in the hands, we have seen in this administration, of political appointees really perverting the decisionmaking in the name of science, these are not people that I think we ought to turn this over to willy-nilly.

But the most troubling part of the legislation is found in the new entitlement program contained in section 14. It goes far beyond paying people to obey the law, far beyond compensating for loss of customary use. It actually would create a perverse incentive for developers to propose the most environmentally destructive projects possible in order to get higher payment from the government. If you think we have litigation under the Endangered Species Act now, wait until you see people coming forward right and left with bizarre proposals for development seeking compensation for things that were never customary uses.

It is not only an unfunded mandate. It is providing a form of environmental blackmail and promotes endless legal battles. I urge my colleagues to reject the rule and this radical rollback of the Endangered Species Act.

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

Mr. HERGER. Mr. Speaker, I rise today in support of the rule and in strong support of the underlying bill. The Endangered Species Act is a law with good intentions, but it has spun wildly out of control with tragic consequences for average Americans.

The northern California district I represent has been ground zero for some of the worst examples of the human impacts of this law gone awry. In 2001, a community of family farmers in the Klamath Basin of northern California and southern Oregon had their entire water supply shut off to prevent a perceived threat to two species of listed fish.

□ 1100

Families who for generations had worked the soil to produce food for our Nation were literally left high and dry. To add insult to injury, it was later determined that that decision was not scientifically justified.

Several years ago a levee protecting one of the communities I represent had deteriorated, and the Army Corps of Engineers predicted that in the event of high water, there would be a significant threat to human life. For nearly 7 years, local officials tried to repair that levee, Mr. Speaker, but those repairs were stymied because of the Endangered Species Act. Those delays had tragic consequences. The levee did break, just as the Corps predicted. Tragically, three people drowned.

Mr. Speaker, the impact of this inflexible law have been real and devastating. The reforms proposed by this common sense legislation are long overdue.

I commend the gentleman from California (Mr. POMBO) on his good work and urge my colleagues to support it.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, I would like to address my comments to the Members who do have serious concerns about the Endangered Species Act who have had frustrations from their citizens about its application, but still believe that we ought to have a workable Act, and I want to suggest that voting for this bipartisan substitute and ''no'' on the Pombo bill will really satisfy their needs for five reasons.

Reason number one, the substitute bill will make a significant change to reduce the amount of frustration that landowners feel by moving the listing process of habitat from the time of listing to a time of the development of the recovery plan. And the reason this will alleviate much frustration by landowners is it will allow these services to make a more acute and scientifically sound judgment where this land needs to be listed for habitat and will relieve significant frustration of landowners.

Second, the substitute will make sure that we try to use public land first when we try to protect habitat to take care of these species.

Third, and importantly, it will have a conservation grant program to allow the use of federal funds to help private landowners who will agree to use their lands to help in the preservation of these species.

These are three very significant changes to the Environmental Protection Act which will help property owners avoid some of the frustration that now exist while still moving forward with the purposes of this Act.

But we then need to vote ''no'' on the underlying bill for these two reasons: First, the underlying bill is a massive entitlement program that could be subject to massive fraud because the language is so loose and so speculative, we would be expecting the American taxpayers to shell out literally millions of dollars on highly speculative developments. When a developer comes in there, buys up land that is used for a wheat field and says he wants to put in a strip club or a casino, American taxpayers, under the underlying bill,

would now have to pay entitlement funds where there is no money in this bill appropriated to do it, or even especially authorized for these highly speculative enterprises. Why should the taxpayers have to pay for this flim-flam type of speculation?

And, by the way, nowhere in American law is any taxpayer required in any jurisdiction in this country to do that right now. This is a radical change which exposes the taxpayers to millions of dollars of loss that is not required by the U.S. Constitution and makes no common sense.

And second and lastly, very importantly, the underlying bill provides no enforceable protection for the habitat of these species. Sure, it says that the agencies have to draw these maps, but what is a map if they do not have to follow the map? Five reasons. Members can vote for this with honor, go home and tell their constituents this they have relieved their frustration and protected these species and protected the taxpayers. Respect for the taxpayers and respect for God's creatures at the same time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho (Mr. OTTER).

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

Mr. OTTER. Mr. Speaker, I would first like to congratulate the gentleman from California for the great work he has done in getting the Endangered Species Act reform to the floor. This is a very controversial issue, and he and the committee should be commended for working to address some of the real problems in the current law.

There are a couple of provisions for which I have been a strong proponent, and I am pleased that the chairman has agreed to include them in the manager's amendment.

My first amendment is a commonsense one aimed at empowering electricity consumers with the ''right to know'' what they are paying for. This amendment simply seeks to provide ''sunshine'' and transparency to the way our Federal Government does business.

Specifically, the provision requires that each of the Power Marketing Administrations, the Bonneville Power Administration, Western Area Power Administration, Southwestern Power Administration, and the Southeastern Power Administration, to include costs related to the Endangered Species Act in their customers' monthly electricity billings.

In the Pacific Northwest alone, the Bonneville Power Administration accounts for 45 percent of the region's electricity sales and 75 percent of the transmission lines.

Bonneville Power's rates have risen 46 percent since 2001, due in main part to the Endangered Species Act's impact on the Columbia/Snake hydropower system. The Agency spends an average of $500 million per year on ESA compliance. To whom are these costs passed on to? Of course, the electricity ratepayers.

The point of all this, Mr. Speaker, is that few Pacific Northwest consumers have a notion of the amount of money of their monthly bills that goes directly towards the Endangered Species Act compliance, nor do they or other end-user consumers of the other Power Marketing Administrations. It is estimated that as much as one third of the power bill from the BPA is devoted to salmon recovery, but no one knows for sure.

I get a bill once a month from the power company that includes all sorts of information about tips on conserving energy and warnings on how to keep me from electrocuting myself, but nowhere does it detail what I am paying for. How much is for generating power and how much is for transmission costs and how much is for the ESA?

I would like to thank the chairman for including language in the bill that consolidates jurisdiction of the Endangered Species Act management of species under one agency. During my first term in Congress, I introduced legislation that did just that, and I am pleased to see the concept is finally moving forward.

NOAA Fisheries originally was part of the Department of Interior until 1970, when NOAA was created under the Department of Commerce to address federal management of commercial and tribal fisheries. This was prior to the enactment of the Endangered Species Act of 1973. Now the Agency's mission of managing commercial and tribal harvests of salmon and recovering endangered species are in conflict.

NOAA Fisheries and the Fish and Wildlife Service have differing processes for handling and permitting thousands of activities that must undergo federal conciliation under the ESA and competing science on how best to manage the species. It would be better for the species and for cost-effective government management to have one process that works.

Consolidation of agencies managing the ESA will eliminate duplication and allow scarce Federal resources to be focused on achieving the true objective of the Endangered Species Act, the recovery of species through science-based management.

I encourage Members to support the rule, the manger's amendment, and the bill and oppose the Miller-Boehlert substitute that lacks all the property rights protection that the Committee on Resources has worked so hard to restore. I thank the chairman for his leadership on this issue, and I look forward to the passage of this bill.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I would like to thank the gentleman from Massachusetts for yielding me this time.

I am put in the unenviable position today, as a lifelong Democrat, to have to stand and oppose the Democratic position on this rule.

As I have sat here and listened to the debate on the rule, I simply do not feel that some of the statements by my colleagues are accurately reflecting what is in the bill as it currently is written. It is simply untrue that this bill allows skyscrapers to be built on the prairie to endanger species. We are not going to be using taxpayer dollars to promote strip clubs or casinos, as one of my colleagues said. It is simply not true.

The reality is that under the Endangered Species Act, most of the provisions of the Act, as it currently stands, will be in place. What we are talking about is compensating farmers if their land is taken away, and if they want to continue to farm and under the Act we have to protect a species, the farmer will be compensated for the right that has been taken away. That is a longstanding right of this country, to be compensated when government takes one's property.

We had a vote recently on this floor of over 400 Members who said exactly that in one of the eminent domain cases that was recently challenged, when the Supreme Court took someone's property.

We have a longstanding tradition here of protecting personal property rights but not when it comes to the Endangered Species Act. In my State, the Fish and Wildlife Service said that 4.7 million acres of California had to be set-aside for the red-legged frog, 1.7 million acres for vernal pools and fairy shrimp. This is not a new entitlement program. This is compensating landowners when their property is taken away.

Those in support of the substitute have been distributing a handout, and in the substitute it says virtually everything that the gentleman from California (Mr. POMBO) and I and others have written and coordinated on. In fact, about 90 percent of this bill was written by Democratic staff. I will say that, frankly, that does not happen in this House very often where there is a bipartisan attempt to come to an agreement.

There is 10 percent disagreement on this bill, and virtually what that 10 percent disagreement is, is whether or not people are going to be compensated when their land is taken and the fact that there has been a new focus, according to some of my colleagues, of putting the onus of this bill mainly on to public lands. Well, the reality is most of the endangered species, in fact, 90 percent of the endangered species, are on private lands. So that provision that is in the substitute simply will not work.

I urge my colleagues to reject the challenge to the rule, to support the rule, and to support the underlying bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I thank him for his very important work on this vital piece of legislation.

I rise to support the rule and the underlying legislation and to begin by praising the gentleman from California (Mr. POMBO), the very distinguished chairman, for all of the effort that he has put in to assembling a bipartisan compromise on this.

I will say I am somewhat disturbed with what I just heard from the gentleman from California (Mr. CARDOZA) that 90 percent of this legislation was, in fact, crafted by Democratic staff. But I will say that if it embraces the core Republican goals that the gentleman from California (Mr. POMBO) is pursuing, I still will be supportive of it. But I think that that is demonstration of the fact that we are working in a bipartisan way and the gentleman from California (Mr. POMBO) has demonstrated his willingness to do just that.

When I think about the long struggle which the gentleman from California (Mr. POMBO) has been involved in for a decade to try to bring about reform of the Endangered Species Act, I think back to one of the challenges that we have in Southern California, and the gentleman from California (Mr. CALVERT), who has worked long and hard on this, represents part of Riverside County, and I recounted up in the Committee on Rules yesterday the fact that dealing with the Stephens' kangaroo rat, an endangered species, we had conflicting directives that came from government.

□ 1115

The fire department in Riverside County said you should clear the brush away from your homes to ensure that you do not face the threat of fire. The County of Riverside said to comply with the Endangered Species Act we would be jeopardizing the Stephens' kangaroo rat's life. And, by the way, the Stephens' kangaroo rat had been found in great numbers later in Texas, but we would jeopardize that if you did clear the brush away from your home.

What happened? To their benefit, many people who followed the directive of the fire department, their homes were saved; and, of course, those who did not tragically lost their homes because of fire.

We right now in Southern California are dealing with tremendous fire problems in that area; and, frankly, I do believe that the kind of reform that is going to be assembled in a bipartisan way on the Endangered Species Act will go a long way toward preserving property and to make sure that we diminish the kind of threat that does exist out there.

Recovery efforts, coupled with compensation for private property, that is a big part of what this effort is about. I congratulate, again, the gentleman from California (Mr. POMBO); and I know the gentleman from California (Mr. CARDOZA) has been working very hard on this, obviously, because he has had a lot of impact, as he just outlined.

Mr. Speaker, I think that we can come with, I hope, a very, very strong vote from both Democrats and Republicans for both the rule and the underlying legislation. I thank again my friend for his efforts on this.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. UDALL).

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me time, and I also thank him for his excellent presentation on the rule.

Mr. Speaker, I rise in opposition to the rule. Once again the folks running this place have made a mockery of the legislative process. This bill was put on a rocket docket so that no one knows what is in it. Look at how we have proceeded here.

First of all, last week, just a short 10 days ago, we first saw the bill. Some of the members of the committee did not even see it until Tuesday. Unveiled on Monday, and did not see it until Tuesday, Democrats and Republicans not knowing what is in the bill. On Wednesday, we had hearings, 2 short days later. We only had four witnesses and several hours of hearings; and the crucial witness in this case, the administration witness, would not even take a position on the bill.

Here is the agency that for 30 years has administered the bill, with the scientists, with the expertise, and the administration witness walks in and says, We do not know. We do not have an idea. Just go ahead.

We could have taken the time, I say to the gentleman from California (Chairman POMBO), to travel the country, to reach out and find out what was working with this law and what was not working and crafted a bipartisan bill. But that is not what we have here today.

After we had that hearing with four witnesses, the very next day, rather than waiting a day or two and seeing how the hearing went and what the reaction was, we marked up the bill and reported it out of committee. So at the end of the week we thought we had one bill. Well, last night in the Committee on Rules, there were major changes to the bill again in the manager's amendment.

So what the gentleman from California just said about the Democrats writing the bill, sure, we contributed some of the language, but the manager's amendment makes significant changes in this bill; and the things that we are really fighting over, we may have contributed 90 percent, but the things we are fighting over in the 10 percent are huge things at stake: this huge giveaway to big developers, major changes in the environmental laws. Those were written by others in the bill.

So this bill is an abomination. It has made mockery of the legislative process. I urge my colleagues to defeat the rule and start once again, start once again with a process that respects this institution.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, the author of this bill, and somebody who has worked extremely hard on this for at least 12 years.

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

First of all, I want to thank the major coauthor of the bill, the gentleman from California (Mr. CARDOZA), for working with me in a bipartisan way over the last several months to craft a bipartisan solution to the problems that we have got with the Endangered Species Act.

I also would like to thank the gentleman from West Virginia (Mr. RAHALL), the ranking member on the committee, for all of the work that he put in, and that his staff put in, particularly Jim Zoia, who did yeoman's work in putting this bill together. Lori Sonken, Tod Willens, and Rob Gordon worked tirelessly to try to compromise and work out a bill that we could all be proud of, along with Hank Savage from the Office of Legislative Counsel.

We have come a long way, a long way, from where we were. This debate over endangered species has been raging across this country for years, and our effort was to throw away everything that we had tried to do in the past and put it aside and try to start again and say how do we sit down as members of the Committee on Resources and come to a solution that we can all agree with.

That is what we attempted to do. We knew that the Endangered Species Act had problems. We knew that there were things that had to be fixed, that just were not working in current law.

It is kind of ironic this morning to hear people come to the floor and talk about how radical the bill is and how quickly we moved on it. We have held over 50 hearings on the Endangered Species Act. We traveled around the country, going to places where people actually have to live with the implementation of the law and listened to them and what they told us. And we came back and we started to craft a bill.

I did not push through the bill that I wanted. I did not allow the gentleman from California (Mr. CARDOZA) or the gentleman from West Virginia (Mr. RAHALL) to push through the bill they wanted. We sat down and worked it out.

It is amazing to hear all of this stuff that is supposedly in the bill. From what I see, all of these folks are going to vote ''no'' on the bill and they are going to vote ''no'' on the substitute, because the substitute claims to be the same thing. It claims to deal with all

the same issues, and in fact they use the exact same language. ''Critical habitat.'' Both bills use identical language. ''Provide certainty for landowners.'' Both bills use identical language. ''Provide incentive for landowners.'' Both bills use identical language. And on and on and on.

What is the major difference? What is the major difference? In our bill, we protect the small property owners. Yes, we do. And we should. If the Federal Government steps in and takes somebody's land for a highway, we all pay for it. I do not see people running down here screaming it is an entitlement. I do not see people running down here screaming that it is a budget buster if we pay people if we take that property for a highway.

If we take it for a wildlife refuge to protect a wildlife refuge, we pay them for it, and nobody is down here screaming about it saying it is an entitlement. Nobody is down here screaming, saying it is unfair to pay somebody if you take their property for a wildlife refuge.

If you take their land for a national park, we pay them for it, and nobody is saying that is an entitlement. Nobody is saying that we are busting the budget.

But when we get to endangered species, we tell a farmer, you cannot farm part of your land, 10 percent, 20 percent, 50 percent, whatever it is, you cannot farm that part of your land, now, all of a sudden, oh, we cannot do that.

Well, we have got the responsibility to do it. If you take away somebody's private property, if you take away the use of their private property, you have to pay them for it. There is nothing wrong with that. Why you guys are so wed to the old debates and the old rhetoric, I have no idea.

We sat down as a committee and we worked out this bill. Half the Democrats that voted in the committee voted for it. It was a bill that was worked out. It is not everything I wanted; it is not everything the gentleman from California (Mr. CARDOZA) wanted. It was a compromise, a reasonable way to protect endangered species, to protect the habitat in which they need to recover; and if that does involve private property, yes, we pay them for it. And, dang it, we should.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, the gentleman from California tries to make the substitute and the bill that is on the floor sound the same; but there are major differences, and we should recognize that. First of all, let us talk about some of those differences.

The bill before us is a huge giveaway to big developers. It creates a program where the burden is on the government to disprove. It basically does not put a dollar amount in the bill, because they are afraid of the dollar amount because it is an entitlement program for landowners that want to gut the Endangered Species Act. But the estimates are 10, 20, 30, 40 billion. Who knows how much this is going to cost.

Our bill, the substitute, does not do that. It is modest. It says we should work with private landowners. It sets up a program so that the government goes out and works with those landowners to accomplish the goals of the Endangered Species Act.

The majority bill, and this is another major difference, changes the Endangered Species Act in a radical, radical way, especially with the adoption of the manager's amendment. The substitute reforms the Endangered Species Act, while protecting the core provisions of that magnificent environmental law that has been on the books for 30 years.

At the end of this, we have not respected this institution by the way we brought the bill before the floor, the way we have worked in committee to put it on a rocket docket and speed it through, speed it through this process. We need to slow down. We need to take a look at this and work in a bipartisan way.

I urge my colleagues to defeat the rule.

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

Mr. Speaker, I would again urge my colleagues to, first of all, vote ''no'' on the rule, and I would also urge them to vote ''no'' on the underlying bill. I appreciate the work that the gentleman from California (Chairman POMBO) and others have put into this bill, but the bottom line is that the underlying bill eliminates habitat protections; it abandons the commitment to recovery of endangered species; it repeals protection against hazardous pesticides; it politicizes scientific decision-making; it eliminates the vital check-and-balance of consultation; it requires the Fish and Wildlife Service to allow unfettered habitat destruction; it would require taxpayers to pay developers, oil and gas companies and other industries, for complying with the law; and it is an entitlement.

I know the chairman has kind of objected to that characterization, but that is not my characterization. It is what CBO has concluded. It is what our colleague from Illinois (Mr. KIRK) who testified yesterday on behalf of the Republican Study Committee and the Republican Tuesday Group said last night in the Committee on Rules, that this bill creates an expensive new Federal entitlement program.

Mr. Speaker, the Endangered Species Act has done a great deal to protect endangered species. Everybody agrees that there needs to be adjustments. Everybody agrees that we can come together and make those necessary adjustments. But what we object to is that the underlying bill guts the Endangered Species Act. It is a bad bill; it is bad policy. I would urge my colleagues to vote ''no'' on the rule and the bill.

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

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

Mr. Speaker, there has been a lot of rhetoric thus far on the rule, and I suspect there will be a lot of rhetoric when we debate the bill; but there is one underlying thread here that needs to be mentioned. It was mentioned by the gentleman from Utah (Mr. BISHOP), the gentleman from California (Mr. CARDOZA), and the gentleman from Maryland (Mr. GILCHREST).

□ 1130

That is that the Endangered Species Act needs to be updated.

I came here 10 years ago, and this is one of the big issues that was very important to my constituency when I first ran. There was talk then about amending the Endangered Species Act, but there was no agreement at all. We did get a bill out of committee. Unfortunately, it did not go any further.

But now we hear today that there is 90 percent agreement on the need to change the Endangered Species Act, but there is violent 10 percent disagreement on what those means should be. I contend that is huge, huge movement from where we have gone in 10 years. I do not know what the reasons are, but I expect the reasons are the inflammation of the existing Act.

So with that, Mr. Speaker, I urge support of the rule.

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

The previous question was ordered.

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

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

Mr. MCGOVERN. 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, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.J. RES. 68, CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 469 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 469

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. 68) making continuing appropriations for the

fiscal year 2006, and for other purposes. The joint resolution shall be considered as read. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

SEC. 2. It shall be in order at any time on the legislative day of Thursday, October 6, 2005, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this resolution.

SEC. 3. A motion to proceed pursuant to section 2908 of the Defense Base Closure and Realignment Act of 1990 shall be in order only if offered by the Majority Leader or his designee.

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

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), 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. PUTNAM asked and was given permission to revise and extend his remarks.)

Mr. PUTNAM. Mr. Speaker, House Resolution 469 is a rule that provides for consideration of House Joint Resolution 68, making continuing appropriations for the fiscal year 2006. This 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. The rule provides one motion to recommit the joint resolution.

Additionally, the resolution provides that suspensions will be in order at any time on the legislative day of Thursday, October 6, 2005, and the Speaker or his designee shall consult the Minority Leader or her designee on any suspension considered under the rule.

Lastly, the rule provides that a motion to proceed pursuant to section 2908 of the Defense Base Closure and Realignment Act of 1990 shall be in order only if offered by the majority leader or his designee.

Mr. Speaker, I want to commend the gentleman from California (Chairman LEWIS) and the entire House Committee on Appropriations on both sides of the aisle for sticking to the timetable they laid out at the start of this legislative session. In an impressive display of bipartisanship and just sheer hard work, the House passed all 11 appropriations bills prior to the July 4 District Work Period. Since July, the Senate has returned to us only the interior and legislative branch appropriations bills, which have each been signed into law by the President. Additionally, the Senate has passed six of its remaining 10 appropriations bills. These six are awaiting closure in conference. We are now just anticipating action from the Senate on those last four appropriations bills so we can move forward, finish the appropriations process, and avoid a cumbersome omnibus funding bill.

Unfortunately, the appropriations process within the two bodies has not been completed prior to the start of the new fiscal year which, of course, begins this October 1. We must institute a continuing resolution in order to allow the government to function through November 18, 2005, while we complete consideration of the remaining appropriations bills, waiting on the Senate to complete their final actions, and for the conference committees to do their work. This rule allows consideration of the imperative funding measure.

I am most impressed with the work of the Committee on Appropriations on this continuing resolution. Throughout the appropriations process, the committee has shown its commitment to the budget resolution and to fiscal responsibility. The committee has funded programs and activities at the lowest level of the House-passed level, the Senate-passed level, or the fiscal year 2005 current rate. For agencies for which the Senate has not passed a bill by the start of a new fiscal year, the funding rate is at the lower of the House-passed level, or the fiscal year 2005 current rate.

The legislation includes language prohibiting agencies from initiating or resuming programs or procurements not funded in the fiscal year 2005, and prohibits agencies from awarding new grants and certain other forms of assistance during the period of the CR, which, of course, is through November 18 of this year.

I again congratulate the gentleman from California (Chairman LEWIS) and the gentleman from Wisconsin (Ranking Member OBEY) and the entire committee for their hard work this year. I urge Members to support this rule and the underlying CR so that we can finish the appropriations process, move down the road to responsible funding for the needs of this Nation, and avoid a cumbersome omnibus funding bill.

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

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time, and I yield myself such time as I may consume.

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

Ms. MATSUI. Mr. Speaker, this rule will allow us to debate H.J. Res. 68, a continuing resolution that will fund the Federal Government past September 30. While this is an essential procedural measure, it also represents an opportunity. Between now and November 18, when the resolution expires, Congress has a responsibility to step back and consider its priorities. The facts on the ground have changed, and our agenda here in the House must change accordingly.

I am confident that we will do right by those affected by the hurricanes, but we still need to ask ourselves where our financial and legislative duties are in response to Katrina construction, continued funding for Iraq and Afghanistan, and increasing fiscal deficit. Are we looking at the big picture? Are our priorities in line with our financial obligations? We know that because of Katrina, the victims, those displaced from their homes, are more likely to rely on medicaid. With that known expense, can we honestly reduce the funding for this responsibility and still extend tax cuts?

Mr. Speaker, we need to take care of our fellow citizens, but what we do now should not mean we pass on an unsustainable debt to future generations, especially when we know there is a way we can offset these costs. For the costs of this year's installments of the tax cuts enacted in 2001 and 2003, $225 billion this year alone, we could pay for the gulf States' recovery from Katrina. We know that we need some of these cuts, such as AMT relief, but let us at least be reasonable and put them on the table.

We must have an honest discussion about our fiscal situation. I urge my colleagues to step back and take a hard look at how we will move forward, not just this fall, but next year and the decades after that.

Mr. Speaker, I am sure that all of my colleagues have heard me talk about my granddaughter Anna, and we all have someone like her, someone we see as our future, someone that means the world to us. I believe that she will grow up to a better future. But, to do right by them, we must all step up to the plate, not as Members of one party or another, but as leaders and statesmen willing to accept the reality of our fiscal situation and make the difficult decisions.

Our priorities in the coming months should not waver from the ultimate goal.

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

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

I thank the gentlewoman for her comments. I certainly agree that this debate about the budget and the appropriations process is always a debate about our future, and it is a debate about priorities. Clearly, we have had a shift in priorities since that budget resolution passed. As a State that was hit by four hurricanes last year and had the beginnings of Katrina come across our State this year, our hearts go out to our brothers and sisters on the gulf coast, and we recognize that this government has a commitment to help lift up those citizens on the gulf coast and, where appropriate, we have a Federal responsibility in the rebuilding and reconstruction process in Louisiana and Mississippi and Alabama, and a lot of other places.

So I think that that reinforces the need for us to move ahead with this

continuing resolution and allow our appropriations process to work, instead of positioning ourselves to a situation where we end up with an omnibus bill that I do not think either one of us thinks is the appropriate way to go.

There is an opportunity here for us to reprioritize, using regular order, using the strength and talent that sits on our committees, and bringing about a measured approach to doing that. It is going to require offsets. The numbers that are coming out of there fluctuate wildly, and it is important that we have a handle on what those needs truly are. It is important that we recognize that had we not taken some of the steps that we have taken in the past, we would not have eliminated $100 billion off of the deficit in the last year. We would not have been in a position where revenues to the government would have actually been higher than they were as a result of the lower taxes and the growth in the economy that has come about as a result of that.

But that is a debate for another day. This is a debate about the continuing resolution and the need for us to make sure that the government does not shut down.

The House has done its work. I think we can all be very proud of our appropriators finishing their schedule before July 4, and now we are in a position, unfortunately, of being in a bit of a holding pattern, waiting on the Senate and our conference committees to do their work. But it is important for us to pass this rule and allow the CR to move ahead.

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

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. UDALL).

(Mr. UDALL of Colorado asked and was given permission to revise and extend his remarks.)

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentlewoman from California for yielding me this time. Mr. Speaker, I cannot support a closed rule, although I do understand the need for prompt action on the continuing resolution. As my good friend from Florida has pointed out, the Senate's slowness in acting on appropriations bills means that the continuing resolution that we are discussing here today is necessary.

However, as we prepare to provide the funds to keep the government running, I think we need to consider the larger budgetary picture. It is essential for us to respond to the devastation brought by hurricanes Katrina and Rita but, as we do, we should consider and respond to the fiscal and economic risks we have been running.

I think there is an urgent need for both the administration and the Congress to face hard reality and not continue with budget policies based on laws that defy the laws of fiscal gravity. For too long, there has been a dearth of both presidential leadership and accountability in this area.

That is why later today, along with the gentleman from Ohio (Mr. CHABOT), the gentleman from Arizona (Mr. FLAKE), and perhaps the gentleman from Florida (Mr. PUTNAM), I will introduce a bill that I think could promote both. The bill is called the Stimulating Leadership in Cutting Expenditures Act, or the SLICE Act for short. It would do two things: First, it would authorize the President to identify specific items in Federal spending that he thinks should be cut; and second, require Congress to vote on each of those items.

The bill would apply both to appropriations and to spending items in the recently signed transportation bill. It would set deadlines for the President to propose cuts and for Congress to act on them.

Under the bill, Congress would have to vote on each proposed cut. We could not ignore those proposals, as can be done under current law, and if a majority approved the cut, it would take effect.

The President has said we should pay for responding to Katrina and Rita through spending cuts alone, but the President's own party and the majority in this House are divided on what to cut.

We may disagree on budget and tax priorities, Mr. Speaker, but one thing is certain. It is past time for a serious debate about specific proposals for ways to dig ourselves out of the deficit hole. This bill is intended to jump-start that debate.

I hope all of our colleagues will join us in this crucial effort to restore fiscal sanity to our Nation's Capital.

Mr. Speaker, Hurricanes Katrina and Rita not only brought death and destruction across a wide swath of the Gulf coast. They also delivered a blow to the Federal budget and sounded a wakeup call about the fiscal and economic risks we have been running.

A full response to these natural disasters must include more than emergency repairs, humanitarian relief, and community rebuilding. We also need to consider serious questions about the limits of government, the wisdom of wartime tax cuts, and our national capacity to look beyond short-term political priorities.

If anything good can come from these terrible storms, maybe it will be recognition by both the Bush administration and Congress that now we need to face hard reality and not continue with budget policies based on defying the laws of fiscal gravity. It's about time.

Even if Katrina and Rita had taken less destructive paths and the New Orleans levees had held, the problems would have been serious because the Federal budget was already on a dangerous course marked by tidal waves of red ink and towering piles of debt. Since 2001, the budget surplus that President Clinton and a Republican Congress bequeathed President Bush has been erased and our country is now in debt to the tune of $8 trillion, or $25,000 for every American man, woman and child.

This was the result of several factors, of course, but the size and scope of the Bush tax cuts must bear a large part of the blame.

Several parts of those tax cuts—for example, eliminating the marriage penalty, fixing the 10 percent bracket and extending child care tax credits—were good. They gave a reasonable boost for the economy and increased the fairness of the tax laws. But having campaigned on giving back most of the budget surplus in tax cuts, President Bush insisted on much more, and Congress went along.

Many of us warned against reducing the surplus so recklessly, and urged the administration and Congress to remember the need to be ready for future emergencies. Our pleas for restraint were ignored. And then came the attacks of 9/11 and with them the need for increased spending on homeland security, a military response in Afghanistan, and a war in Iraq. The budget nosedived from surplus into deep deficit.

Even in the face of national emergency, neither the President nor Congress has seen fit to call on Americans for any sacrifice, and instead of temporarily scaling back tax cuts, the President has insisted on making them permanent even as Federal spending has skyrocketed.

So now we are putting the costs of war and everything else the government does on the national credit card—but the debt is owed not just to ourselves (as in the past), but to China, Japan and India.

Why have we allowed things to get so far out of hand?

Part of the answer is that budget and tax policy in Washington has been so captive to very partisan and extreme ideological voices that it has been hard to find common ground and moderate consensus.

Even in this time of war, extremists in the Republican Party view tax cuts as almost a religious calling, while some in my party reject any spending cuts except in defense. And the Vice President dismisses complaints by saying "deficits don't matter."

So, it not surprising that the appropriations process has not been marked by fiscal discipline. Unless the President or Congressional leaders proclaim a need for restraint, let alone sacrifice, why would Members of Congress not work to meet the transportation and infrastructure needs of their districts and seek funding for other valued purposes?

But all this cannot go on forever. Sooner or later, something has to give. And, if the result is a new sense of responsibility, sooner is better—because there is an urgent need to rethink and revise our budget policies, including both taxes and spending.

It could be that, just as they revealed the problem, Katrina and Rita can provide a catalyst to beginning that overdue job.

The President has said the Federal Government will undertake to help rebuild the communities left devastated by the storms—and has said that spending for other purposes should be reduced to offset the costs.

I have serious doubts about the adequacy of that approach, about the desirability of whatever spending cuts the President may propose, and about the readiness of Congress to seriously consider any cuts at all.

But I am hopeful that maybe at last the time has come for a serious debate about specific proposals for ways to dig ourselves out of the deficit hole.

To help begin such a serious debate, earlier this year I introduced legislation that would give the President authority to require Congress to vote, up or down, on specific appropriations items the President deemed unworthy of funding—a workable and Constitutional

alternative to the line item-veto legislation that the Supreme Court struck down in 1998.

Now, I am introducing an updated version of this bill that focuses directly on the President's suggestion that disaster response costs be offset with spending cuts.

The bill is called the Stimulating Leadership In Cutting Expenditures or, "SLICE" Act.

That name fits because the bill would promote Presidential leadership and Congressional accountability on proposals to reduce other spending in order to offset the costs of responding to the recent natural disasters.

Toward that end, it would authorize the President to identify specific items of Federal spending that he thinks should be cut and would require Congress to vote on each of those items.

The bill would apply not only to regular appropriations, but also to the transportation bill that was passed and signed into law earlier this year.

The bill would establish a two-phase process: the President would have until November 1st to tell Congress which, if any, of the spending in the transportation bill should be cancelled. And he would have until the end of this year to identify any items in fiscal year 2006 appropriations bills we wants to eliminate.

In each case, if the President proposes a cut, Congress would have to vote on it—we could not ignore the proposal, as can be done under current law—and if a majority approved the cut, it would take effect.

Mr. Speaker, as our budget situation has grown worse, there has been a lot of talk about "earmarks," meaning funding allocations initially proposed by Members of Congress rather than by the Administration.

Some people are opposed to all earmarks. I am not one of them. I think Members of Congress know the needs of their communities, and that Congress as a whole can and should exercise its judgment on how tax dollars are to be spent. So, I have sought earmarks for various items that have benefited Colorado and I will continue to do so.

At the same time, I know—everyone knows—that sometimes a large bill includes some earmarked items that might not be approved if they were considered separately, because they would be seen as unnecessary, inappropriate, or excessive.

Dealing with that problem requires leadership and accountability. My bill would promote both.

Presidents are elected to lead, and only they represent the entire Nation. The bill recognizes this by giving the President the leadership role of identifying just which other spending he thinks should be cut in order to offset some of the amounts the Federal Government will be spending in response to recent natural disasters.

And, under the Constitution, it is the Congress that is primarily accountable to the American people for how their tax dollars will be spent. The bill respects and emphasizes that Congressional role by requiring a vote on each spending cut proposed by the President.

I do not know exactly which spending the President might propose to cut, so I do not know whether I would support some, all, or any of those proposals.

But I do know that we should stop wasting time in theoretical debates about whether we should make spending cuts and start debating specific proposals.

My bill is intended to get that debate started now.

For the benefit of our colleagues, here is an outline of the bill:

STIMULATING LEADERSHIP IN CUTTING EXPENDITURES (SLICE) ACT

The purpose of the bill is to facilitate Presidential leadership and Congressional accountability regarding reduction of other spending to offset the costs of responding to recent natural disasters.

The bill would amend the Budget Act to provide as follows:

The President could propose rescission of any budget authority provided in the recently passed transportation bill or an appropriations Act through special messages including draft bills to make those rescissions.

The President would have until November 1, 2005 to propose canceling spending items in the new Transportation Act and until January 1, 2006 to propose rescissions from FY 06 appropriations bills.

The House's majority leader or minority leader would be required to introduce a bill proposed by the President within two legislative days. If neither did so, any Member could then introduce the bill.

The relevant Committee would be required to report the bill within seven days after introduction. The report could be made with or without recommendation regarding its passage. If the Committee did not meet that deadline, it would be discharged and the bill would go to the House floor.

The House would debate and vote on each proposed rescission within 10 legislative days after the bill's introduction. Debate would be limited to no more than four hours and no amendment, motion to recommit, or motion to reconsider would be allowed.

If passed by the House, the bill would go promptly to the Senate, which would have no more than 10 more days to consider and vote on it. Debate in the Senate would be limited to 10 hours and no amendment or motion to recommit would be allowed.

□ 1145

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

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

I applaud the gentleman's bipartisan effort to find ways to pay for these unanticipated expenses that we have come across, and I wish him the best in that effort. I think it is important that we all recognize on both sides of the aisle that offsets are going to be necessary and that we do have to reprioritize.

As the gentleman knows, the President submitted a list through the regular budget process of 150 programs to cut or eliminate earlier this year, and some of them received some attention and others received more attention than others. It is certainly a difficult proposition in this town to eliminate any program, but the President led early this year with that thought in mind and he had mixed success.

Again, recognizing the importance of your bipartisan effort and recognizing the facts that we are going to have to have these offsets, this bill, this rule that we are here to consider essentially keeps the government from shutting down while we have that debate. It appears that there is genuine broad support for the CR and for the rule, and I appreciate that.

Mr. Speaker, I thank the gentlewoman from California (Ms. MATSUI) for her work on the Rules Committee and what is essentially a broad commitment that we have to have this CR through November 18. Frankly, it is not for lack of effort on the House side. Both parties have a lot of reasons to be proud of the efforts of our appropriators and the entire House. We had a Herculean effort this summer to move these bills on schedule, move them out before July 4th, and because of Supreme Court nominations and everything else obviously the Senate has had other issues on their agenda, and we are in a holding pattern on the appropriations. Nobody wants to see the government shut down after Saturday, so it is important that we move this rule, move the underlying CR, and allow the regular order, the talent and skills that exist within this House, to work their magic as we deal with these unanticipated effects from two gulf storms, and we are not even finished with hurricane season yet.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

adoption of H. Res. 470, by the yeas and nays;

motion to suspend the rules on H. Res. 388, by the yeas and nays;

motion to suspend the rules on H. Con. Res. 245, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 470 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 252, nays 171, not voting 10, as follows:

[Roll No. 502]

YEAS—252

Abercrombie	Baca	Bartlett (MD)
Aderholt	Bachus	Barton (TX)
Akin	Baker	Bass
Alexander	Barrett (SC)	Beauprez

Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—171

Ackerman
Allen
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—10

Andrews
Boswell
Culberson
Davis (FL)
Gerlach
Gutierrez
Harman
Lee
Moore (WI)
Slaughter

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.

□ 1212

Ms. WASSERMAN SCHULTZ, Messrs. VAN HOLLEN, BAIRD, FATTAH and McINTYRE changed their vote from ''yea'' to ''nay.''

Messrs. CRAMER, BISHOP of Georgia, DAVIS of Alabama and PETERSON of Minnesota changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. ANDREWS. Mr. Speaker, I regret that I missed rollcall vote No. 502 today. If I had been present, I would have voted "no."

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES REGARDING JULY 2005 MEASURES OF EXTREME REPRESSION ON PART OF CUBAN GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 388.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and agree to the resolution, H. Res. 388, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 31, not voting 9, as follows:

[Roll No. 503]

YEAS—393

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)

Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—31

Carson
Clay
Conyers
Davis (IL)
Farr
Grijalva
Hinchey
Honda
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kucinich
Lewis (GA)
McDermott
McKinney
Meeks (NY)
Miller, George
Pastor
Paul
Payne
Rush
Schakowsky
Serrano
Stark
Thompson (MS)
Towns
Velázquez
Waters
Watson
Woolsey
Wynn

NOT VOTING—9

Boswell
Culberson
Davis (FL)
Gutierrez
Harman
Kaptur
Lee
Obey
Slaughter

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.

□ 1222

Ms. JACKSON-LEE of Texas, Mr. TOWNS and Ms. SCHAKOWSKY changed their vote from ''yea'' to ''nay.''

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT UNITED STATES SUPREME COURT SHOULD SPEEDILY FIND USE OF PLEDGE OF ALLEGIANCE IN SCHOOLS TO BE CONSISTENT WITH CONSTITUTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 245.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 245, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 383, nays 31, answered ''present'' 8, not voting 11, as follows:

[Roll No. 504]

YEAS—383

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—31

Ackerman
Blumenauer
Carson
Cleaver
Conyers
DeGette
Farr
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Honda
Johnson, E. B.
Jones (OH)
Lewis (GA)
Markey
McDermott
Nadler
Pastor
Payne
Schakowsky
Scott (VA)
Serrano
Stark
Towns
Velázquez
Wasserman Schultz
Waters
Watson
Waxman
Woolsey

ANSWERED ''PRESENT''—8

Capuano
Green, Al
Moore (WI)
Owens
Rush
Sánchez, Linda T.
Tierney
Watt

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Gibbons
Gutierrez
Harman
Issa
Lee
Marchant
McKinney
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1231

So (two-thirds having voted in favor thereof) the rules were suspended and

the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GIBBONS. Mr. Speaker, on rollcall No. 504 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. ISSA. Mr. Speaker, I was present in the Chamber and voted "yea" on H. Con. Res. 245. However, due to a malfunction, my vote was not recorded. As the author of the legislation, you can rest assured that I am a "yea" vote.

GENERAL LEAVE

Mr. LEWIS of California. 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.J. Res. 68 and that I may include tabular material on the same.

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

There was no objection.

CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. LEWIS of California. Mr. Speaker, pursuant to House Resolution 469, I call up the joint resolution (H.J. Res. 68) making continuing appropriations for the fiscal year 2006, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 68

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 2006, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2005 for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2005, and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006.

(2) The Department of Defense Appropriations Act, 2006.

(3) The Energy and Water Development Appropriations Act, 2006.

(4) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (in the House of Representatives), or the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2006 (in the Senate).

(5) The Department of Homeland Security Appropriations Act, 2006.

(6) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006.

(7) The Military Quality of Life and Veterans Affairs Appropriations Act, 2006 (in the House of Representatives), or the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2006 (in the Senate).

(8) The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (in the House of Representatives), or the Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2006 (in the Senate).

(9) The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (in the House of Representatives), or the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006 (in the Senate) and the District of Columbia Appropriations Act, 2006 (in the Senate).

(b) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is the same as the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the actions of the House and the Senate, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if no amount or authority is made available or granted for the project or activity by the actions of the House and the Senate, the project or activity shall not be continued.

(c) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is different from the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lowest, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is included in the pertinent Act of only one of the Houses, the project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005.

(d) Whenever the pertinent Act covering a project or activity has been passed by only the House of Representatives as of October 1, 2005—

(1) the project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is funded in applicable appropriations Acts for fiscal year 2005 and not included in the pertinent Act of the House as of October 1, 2005, the project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for fiscal year 2005 at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005.

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for (1) the new production of items not funded for production in fiscal year 2005 or prior years; (2) the increase in production rates above those sustained with fiscal year 2005 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2005.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

(c) Notwithstanding this section, the Secretary of Defense may, following notification of the congressional defense committees, initiate projects or activities required to be undertaken for force protection purposes using funds made available from the Iraq Freedom Fund.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

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 2005.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. 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 whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity; or (3) November 18, 2005.

SEC. 107. 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. 108. 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 in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that had high initial rates of operation or complete distribution of fiscal year 2005 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 2006 shall not be made and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. 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. 111. No provision that is included in an appropriations Act listed in section 101(a), but that was not included in the applicable appropriations Act for fiscal year 2005 and by its terms is applicable to more than one appropriation, fund, or authority, shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 112. No provision that is included in an appropriations Act listed in section 101(a), and that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation, shall be effective before the date set forth in section 106(3).

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2005, 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 2005, to be continued through the date specified in section 106(3) of this joint resolution.

(b) Notwithstanding section 106 of this joint resolution, funds shall be available and obligations for mandatory payments due on or about November 1, 2005 and December 1, 2005, may continue to be made.

SEC. 115. The provisions of, and amendments made by, sections 1011, 1012, 1013, 1023, and 1026 of Public Law 109–13 shall continue in effect, notwithstanding the fiscal year limitation in section 1011 and the provisions of sections 1012(i), 1013(e), 1023(c), and 1026(e) of that Public Law, through the earlier of (1) the date specified in section 106(3) of this joint resolution, or (2) with respect to any such section of Public Law 109–13, the date of the enactment into law of legislation that supersedes the provisions of, or the amendments made by, that section.

SEC. 116. The authorities provided by section 1306 of Public Law 107–314 shall continue in effect through the date specified in section 106(3) of this joint resolution or the date of the enactment into law of a defense authorization Act for fiscal year 2006, whichever is earlier.

SEC. 117. Section 6 of Public Law 107–57, as amended, shall be applied by substituting the date specified in section 106 of this joint resolution for ''October 1, 2005'', and sections 508 and 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108–447, div. D), as made applicable to fiscal year 2006 by the provisions of this joint resolution, shall not apply with respect to Pakistan through the date specified in section 106(3) of this joint resolution.

SEC. 118. (a) Funds provided in section 101 of this joint resolution for ''Social Security Administration-Limitation on Administrative Expenses'' may be used to complete the processing of appeals received prior to July 1, 2005 under sections 1852 and 1869 of the Social Security Act, notwithstanding section 931(b) of Public Law 108–173.

(b) The Commissioner of Social Security may enter into a reimbursable agreement with the Secretary of Health and Human Services to process, during fiscal year 2006, appeals received after June 30, 2005 and prior to October 1, 2005.

SEC. 119. For the purposes of section 101 of this joint resolution, amounts obligated in fiscal year 2005 from funding provided in section 1015 of Public Law 108–173 shall be deemed to have been provided in an applicable appropriations Act for fiscal year 2005.

SEC. 120. Notwithstanding section 101 of this joint resolution, amounts are provided for ''Department of Health and Human Services-Office of the Secretary-Medicare Appeals'' at a rate for operations not exceeding the rate set forth for such account in title II of H.R. 3010 of the 109th Congress, as passed by the House of Representatives.

SEC. 121. Section 1015(b) of Public Law 108–173 is amended by striking ''2005'' and inserting ''2006''.

SEC. 122. The authority provided by section 2011 of title 38, United States Code, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 123. The authority provided by section 2808 of Public Law 108–136, as amended by section 2810 of Public Law 108–375, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 124. The amendment made by section 1022 of Public Law 109–13 shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 125. Funds appropriated by section 101 of this joint resolution for the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in the pertinent Acts specified in section 101(a)(8).

SEC. 126. Funds appropriated by section 101 of this joint resolution for ''National Science Foundation-Research and Related Activities'' may be used for Arctic and Antarctic icebreaking maintenance and operations.

SEC. 127. (a) Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading ''District of Columbia Funds'' at the rate set forth for such programs and activities under title V of H.R. 3058, One Hundred Ninth Congress, as passed by the House of Representatives, and in addition, funds under ''District of Columbia Funds-Enterprise and Other Funds-Capital Outlay'' as included in the Fiscal Year 2006 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 6, 2005.

(b) Section 2302 of Public Law 108–11, as amended by section 336 of Public Law 108–335 shall be applied by substituting the date specified in section 106(3) of this joint resolution for ''September 30, 2005''.

SEC. 128. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of (1) the date specified in section 106(3) of this joint resolution, or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 129. Notwithstanding section 101 of this joint resolution, amounts are provided for ''Department of Transportation-Federal Transit Administration-Administrative Expenses'' at a rate for operations not exceeding the total of budgetary resources made available for obligation for fiscal year 2005.

SEC. 130. Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for ''October 1, 2005''.

SEC. 131. Amounts made available by this joint resolution for the Department of Defense that are related to amounts provided in title IX of the Department of Defense Appropriations Act, 2006, as passed by the House, or related to amounts designated as emergency requirements in previous defense appropriations Acts or supplemental appropriations Acts, are designated as appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, except that amounts so designated under this section shall not exceed $50,000,000,000.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 469, the gentleman from California (Mr. LEWIS) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

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

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume, and I hope I do not consume very much.

Mr. Speaker, I am pleased to bring to the House the continuing resolution for fiscal year 2006. The CR will run through November 18. It is a clean CR without exception. Several Members are pushing the extension of dairy programs, adding emergency spending for the Corps of Engineers, and a whole host of other ideas. We have rejected them all. These items can be addressed in the next supplemental, regular fiscal year 2006 bills, or in reconciliation. The CR will fund agencies at the lower of three levels: the House-passed level, the Senate-passed level, or fiscal year 2005 current rates.

Agencies funded in the Labor-HHS, Treasury, Transportation and Defense bills will be funded at the lower of the House-passed or current rates since the Senate will not pass these bills by October 1. The House and Senate have not passed a CR under the current framework since 1994. By returning to a traditional CR that funds the government operations at the lowest possible level, it will provide a strong motivation for this Congress to complete its work in regular order and produce individual appropriations bills and conference reports.

I want the body to know the Committee on Appropriations is strongly committed to bringing back to this floor individual conference reports for each and every bill. The committee does not support an omnibus or minibus in any form and will do everything in its power to ensure that that does not happen.

I remain committed to moving these bills individually and within the framework of the budget resolution. In order

to help the Senate with the difficult process of passing the Treasury, Transportation and Labor-HHS bills, we will continue to push the lower rate, long-term continuing resolution prospect. I am convinced that this is the only way for us to get back to regular order. The House and Senate committees on appropriations are both committed to this goal.

With regard to the regular order appropriations bills, the Interior and Legislative branch conference reports have been signed into law. The Homeland Security conference concluded just this morning, and we expect to file a conference report today.

The Senate has now passed eight appropriations bills, and the ninth is expected to be completed by early next week. We have begun giving notional allocations to Energy and Water, Foreign Operations, Science, Justice, State and Commerce and Agriculture subcommittees so they can begin negotiating. We are making very good progress.

This continuing resolution is an important step toward achieving our goal of restoring regular order to the congressional appropriations process.

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

Mr. OBEY. Mr. Speaker, I yield myself 13 minutes.

Mr. Speaker, I do not know quite what to say about this continuing resolution. I have a lot of notes here, most of which I will not use, but let me simply note that this is another case of the failure to effectively govern by the Republican President and the Republican majority in this Congress. We are here facing an end of the fiscal year situation 3 days from now. We have failed in the basic test of governing, and I think it is important to understand why.

Throughout the year, we on the Democratic side of the aisle, in the minority, have worked with the majority on every possible procedural issue and cooperated with them procedurally at every juncture so that we could enable this House to pass the 10 appropriation bills that are necessary to pass, even though we disagreed in most instances with the content of those bills.

When I was asked by numerous Members of my caucus and a number of members of the press why we were cooperating procedurally when we opposed the substance of many of the bills, I made it clear. I said we were cooperating because I wanted the record to show at the end of the year, when the Republican majority failed to pass its appropriation bills by the end of the year, I wanted the record to show clearly why.

Now we are here and in spite of our procedural cooperation, the Republican majority has managed to pass only two of the 10 appropriation bills under our responsibility. Why? In my view it is because the majority caucus has such a fundamental disrespect for the basic functions of government that it has sacrificed and squeezed so many education and health and veterans and other programs in order to pay for huge, supersize tax cuts for the most wealthy among us, that, in the end, they have not been able to convince their Senate colleagues to go along and go on record and endorse those cuts. So now we are faced with a stopgap funding bill which is brought to the House floor by the gentleman from California.

Normally, if Congress fails to pass its appropriation bills, then it continues funding at the existing rate until Congress can get its act together. Instead, this bill does something quite different. It says that for the time period under the continuing resolution, we will be spending at the lower of either last year or the House-passed bill or the Senate-passed bill. That results in a number of, I think, extremely inequitable realities. It, for instance, means that we are effectively cutting $800 million below last year and $400 million below the President in the field of education. It means that we are cutting essential job training programs below last year and cutting job training formula grants by $138 million.

In health care, it means that we are cutting maternal and child health care, and we are cutting rural health outreach programs. It means that we are cutting the Community Service Block Grant, a program which deals with the needs of the poorest people in this society by 50 percent. It means that we are eliminating the 10 percent increase that this House had planned for veterans health care. It means that we are cutting the FBI by $616 million below the House-passed bill. It means that we are freezing low-income heating assistance at a time when the cost of home heating for low-income Americans is going to rise by 40 to 50 percent. But it leaves intact, it leaves intact the huge, supersize tax cuts for the top 1 percent of earners in this society, people who make more than $400,000 a year.

And it leaves in place the President's edict, his unilateral edict in the wake of Hurricane Katrina, that the workers in the afflicted area who are trying to put that area back together are not even going to be allowed to get a decent prevailing wage that they would otherwise be guaranteed under Davis-Bacon. And yet while it is chiseling on the wages of those workers, it is saying to the persons who make over $400,000 a year, on average you are going to get a $32,000 tax cut.

Mr. Speaker, $32,000 is a lot more than a lot of people in this country make in a year. A huge percentage of my district makes less than that $32,000.

□ 1245

But we are going to give an average $32,000 tax cut to the people in this society who need it least. The bill also assures the death of one part of the farm bill that was passed 3 years ago. It makes sure that the only major farm bill that is going to expire is the program that is given some financial support to the smallest farmers in this country, the MILC program.

Now, the question is being asked in this town, ''How are we going to pay for Hurricane Katrina?'' In my judgment, Mr. Speaker, that is the wrong question. Katrina, no matter what the eventual cost is and it is going to be large. It is going to be somewhere between $100 billion and $200 billion, I expect. Let us say it is $100 billion. That is a huge amount of money. But this economy is large enough to handle that because it is essentially a one-time bubble. Even though it will be spent out over the next 3 or 4 years, it is a one-time event, and this economy is always big enough to handle that.

But the right question to be asking is not how are we going to pay for Katrina? The right question is: ''How are we going to be able to pay for the decisions already made by the Republican majority of this Congress and the White House to give away to the wealthiest people in this society, the top 1 percent, over $1 trillion in tax cuts over the next decade?'' We are going to give away, in tax cuts to the top 1 percent, ten times as much as Katrina is being estimated to cost. So the right question to ask is: ''What are we going to do so that we can afford to pay for the Katrinas that come along and the Iraqi War, where we have a war of choice driven by a President who misled us into that war by giving us false and misleading information?''

So if the Members vote for this continuing resolution today, they are voting to keep those giant tax cuts in place. They are voting to do not one blessed thing to deal with the long-term fiscal impact that they have on the country and, yes, will be chiseling on some of the programs that I just mentioned.

Mr. Speaker, I am going to offer a motion to recommit, which does a number of things. I am going to offer a motion to recommit, which, number one, would provide that the funding levels in this bill be at the current rate rather than the three-headed rate spelled out by the gentleman, so that we do not, even for a month, cut back on what we are doing on job training or community service block grants or low-income heating assistance or other programs like that. Second, it will ask that we treat all farm programs the same. Third, it will restore Davis-Bacon prevailing wages. It will countermand the President's unilateral edict. And that is basically what I will be asking the House to do.

Under the rules of the House, as they have been jury-rigged, under the rule of the House, if a Member of the House lodges a point of order, this motion to recommit will not be allowed to obtain a vote. But if persons on the majority side of the aisle refrain from lodging a point of order, then the House would be allowed to vote on a measure which restores equity to the farm programs, on a measure which restores equity to

funding levels for all programs, and it would restore Davis-Bacon protections for workers as well. And it would also, I should add, instruct the Congress to come back with a change in the Tax Code so that we limit the size of the tax cuts for people who make over $400,000 to the size received by persons in the top 5 percent of the economy. That means they still get at least a $9,000 tax cut on average. That is not bad.

To those in the majority side of the aisle who say that we should not be doing that, I would say that does not surprise me because that represents the economic philosophy of the majority party. To those on the Democratic side of the aisle who might find it a little nerve-racking to vote to scale back tax cuts even for those well-off folks, my suggestion is if they cannot even stand up and do that, they might as well go and cross the aisle.

Mr. THOMAS. Mr. Speaker, I submit the following correspondence for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 29, 2005.

Hon. JERRY LEWIS,
Chairman, Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN LEWIS: I am writing concerning H.J. Res. 68, making continuing appropriations for the fiscal year 2006, and for other purposes, which is currently scheduled for floor consideration today.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning Medicare. There are two sections within the introduced resolution that are within the authorizing jurisdiction of the Committee on Ways and Means. Section 118 of the resolution allows the Social Security Administration to continue hearing Medicare appeals pending the transfer of that authority to the Department of Health and Human Services. Secondly, Section 121 extends for one year the availability of an appropriation provided to the Centers for Medicare and Medicaid Services and the Social Security Administration under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this resolution. This is being done because of the agreement reached by our respective committees' staff. An e-mail on this issue, sent by the committee, states, ''We are happy to concede your jurisdiction in this matter, and included the language solely because of OMB's [Office of Management and Budget] request that we do so. We don't believe that it prejudices any future action on your part.''

I will place a copy of this letter in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. OLVER. Mr. Speaker, in the wake of Hurricanes Katrina and Rita, our country has been made brutally aware that there in fact are two Americas that exist in this country. Recently released census data shows that in 2004, 37 million people were living in poverty. In addition, this data shows that 1 in 6 children were living in poverty. Yet despite the overwhelming evidence of growing poverty rates and recent images of evacuees unable to leave New Orleans due to their economic situation, this Congress is proposing drastic cuts to Community Service Block Grants funding.

CSBG gives funding to a vast array of programs, including senior citizen congregate meal sites, home delivered meals, transportation programs, job training programs, Head Start, energy crisis assistance, housing programs, education programs, and many other programs to address the needs of low-income families and individuals.

The 50 percent cut to CSBG in the Continuing Resolution would have a devastating effect on evacuees and on low-income individuals. At a time when our country has been severely impacted by natural disasters, it is extremely urgent that Congress maintain CSBG funding at its current level so that the delivery of much needed services to low-income people is not disrupted.

We have a responsibility to ensure that all Americans have an opportunity to share in America's prosperity. It is irresponsible that we approve a Continuing Resolution that cuts funding for CSBG by 50 percent below current funding levels when there is such an obvious need for the services that this funding provides.

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

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

The SPEAKER pro tempore (Mr. FOLEY). All time for debate has expired.

The joint resolution is considered read for amendment and pursuant to House Resolution 469, the previous question is ordered.

The question is on the 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. I most certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

MOTION TO RECOMMIT HOUSE JOINT RESOLUTION 68, MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2006

Mr. OBEY moves to recommit House Joint Resolution 68 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendments:

On page 2, line 7, insert after ''fiscal year 2005,'', ''at a rate for operations not exceeding the current rate''.

On page 2, line 8, strike ''would be'' and insert ''was made''.

On page 2, line 12, strike ''2006'' and insert ''2005''.

On page 2, after line 12, insert ''(2) The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2005''.

On page 2, line 13, strike ''(2)'' and insert ''(3)''.

On page 2, line 14, strike ''2006'' and insert ''2005''.

On page 2, after line 14, insert ''(4) The District of Columbia Appropriations Act, 2005'', and renumber the succeeding subsections of section 101 accordingly.

On page 2, line 16, strike ''2006'' and insert ''2005''.

On page 2, line 18, strike ''2006'' and all that follows through page 2, line 21, and insert ''2005''.

On page 2, line 23, strike ''2006'' and insert ''2005''.

On page 3, line 3, strike ''2006'' and insert ''2005''.

On page 3, line 4, strike ''Quality'' and all that follows through page 3, line 8, and insert ''Construction Appropriations Act, 2005''.

Strike page 3, line 9 through page 3, line 13.

On page 3, line 14, strike ''Housing'' and all that follows through ''Columbia'' on page 3, line 16.

On page 3, line 17, strike ''2006'' and all that follows through page 3, line 22 and insert ''2005''.

On page 3, after line 22, insert ''(11) The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2005''.

On page 3, line 23, strike ''Whenever'' and all that follows through page 6, line 6 and insert ''The appropriations Acts listed in subsection (a) shall be deemed to include supplemental appropriations laws enacted during fiscal year 2005.''.

Strike page 9, line 9 and all that follows through page 9, line 21.

At the end of the joint resolution add the following new sections:

''SEC. . Amounts made available by this joint resolution that are related to amounts designated as emergency requirements in previous appropriations Acts, other than amounts to which section 131 applies, are hereby designated as emergency requirements pursuant to section 402 of H. Con. Res. 95 (95th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. . During fiscal year 2006, notwithstanding the proclamation by the President dated September 8, 2005 or any other proclamation issued pursuant to section 3147 of Title 40, United States Code, the provisions of subchapter IV (except section 3147) of chapter 31 of title 40, United States Code (and the provisions of all other related acts to the extent they depend upon a determination by the Secretary of Labor under section 3142 of such title, whether or not the President has the authority to suspend the operation of such provisions), shall apply to all federally-funded contracts to which such provisions would otherwise apply that are entered into on or after the date of enactment of this Act, to be performed in the jurisdictions affected by Hurricane Katrina and Hurricane Rita.

SEC. . Section 1502 (f) and (g)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) shall be applied by substituting the date specified in section 106(3) of this joint resolution for ''September 30, 2005''

SEC. . Section 201(b) of H. Con. Res. 95 (relating to revenue reconciliation in the House of Representatives) shall be applied as if ''(1)'' was inserted after ''(b)'' and the following new paragraph was added at the end:

(2) REDUCTION IN TAX CUTS FOR TAXPAYERS WITH INCOMES IN THE TOP 1 PERCENT OF THE POPULATION.—The Committee on Ways and Means shall also include in the reconciliation bill reported pursuant to paragraph (1) changes in tax laws to increase revenues by reducing or offsetting the tax reductions received during 2006 by the top 1 percent of taxpayers as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth and Tax Relief Reconciliation Act of 2003 such that the average tax cut received by that class of taxpayers equals the average tax cut resulting from those Acts for the top 5 percent of taxpayers.''

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion 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.

Mr. LEWIS of California. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. A point of order is reserved.

The gentleman from Wisconsin is recognized for 5 minutes in support of his motion.

Mr. OBEY. Mr. Speaker, very briefly, section 1 of the motion to recommit would simply provide that we fund the programs covered under the continuing resolution at the current rate rather than at the lower of either the current rate of the House-passed or the Senate-passed bill. I have already explained the impact of that on program. Section 2 would simply repeal the President's edict that workers in the Katrina-affected region would not be subject to the protections of Davis-Bacon wage protections. Section 3 would simply guarantee that the MILC program remains in force for the same length of time as other titles of the farm bill. And section 4 would require a reduction in the size of the tax cuts for taxpayers with incomes of over $400,000, as I just described in my previous remarks.

POINT OF ORDER

Mr. LEWIS of California. Mr. Speaker, I make a point of order under clause 7 of rule XVI. The instructions proposed in the motion to recommit range far beyond the subject matter of the joint resolution.

The SPEAKER pro tempore. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. OBEY. Mr. Speaker, if the rules required equity in legislation we brought to the floor, this amendment would be in order. Unfortunately, they do not; so I must reluctantly concede the point of order.

The SPEAKER pro tempore. The point of order is conceded and sustained. The motion is not in order.

The question is on the passage of the joint resolution.

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

Mr. OBEY. 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, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. POMBO. 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. 3824.

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

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3824.

The Chair designates the gentleman from New York (Mr. SWEENEY) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1258

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SIMPSON (Acting Chairman) in the Chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 45 minutes.

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

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

We bring up today the Endangered Species Reform Act with the purpose of trying to deal with what some of the real issues are, what some of the real problems are that we have had and have developed over the last 30 years.

If one goes back and reads the original Endangered Species Act, it becomes difficult to be critical of specific language that is it in because the purpose of the Endangered Species Act was to, first of all, prevent species from becoming extinct but, more importantly, to recover those species. And as we look at what has happened over the intervening 30 years, we begin to realize just what problems are with the Act and the way it is being implemented today.

I came into this debate originally because I did not like the way that private property owners were treated under the implementation of the law. That became a big issue in my district and throughout much of the West. Private property owners felt threatened that they would lose their private property and that they could lose control and the ability to use their private property under the implementation of the law.

□ 1300

That became a big problem, and it is something that we began to work on, to try to have some kind of property rights protections in the law.

But the more I got into the Endangered Species Act, the more I realized the law was just not working in terms of recovering species. About 1,300 species have been listed under the Endangered Species Act. Of those 1,300, 10 have been removed because they were recovered. More species have been removed from the list because they became extinct than were recovered.

That less than 1 percent is a complete failure, so we began to really look at the law and see are species really doing better under the Endangered Species Act, and we came to the conclusion that they were not. About three-quarters of the species are either declining in population or the Fish and Wildlife Service has no idea. That is not a success.

When people talk about the act and its importance, they are right, it is important. It is something we all share in terms of preserving wildlife and preserving species. But when the law is not working, we have to respond to that and step in and reauthorize the bill, put the focus on recovery and protect private property owners.

As we have gone through this last several months, I have had the opportunity to work with the ranking member, the gentleman from West Virginia (Mr. RAHALL), and his staff; and I thank them for all of the work that they put into this bill to get us to this point. We worked extremely hard to try and find a compromise bill.

In the end, there were a few issues that we just disagreed on, there were issues we could not come to a conclusion on, but the vast majority of what is in the underlying bill was an agreement that we were able to work out and that I stand by. I believe it is good work, that it is something that is extremely important.

But I will say that, in the end, private property rights, the protection of those property owners, has to be in the final bill, because the only way this is going to work is if we bring in property owners to be part of the solution and be part of recovering those species.

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

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

Mr. Chairman, the gentleman from California and I have been working together for the last several months to try to find common ground on the amendments to the Endangered Species Act. As the chairman knows and many of my colleagues, I came to our discussions with the view that the ESA does not need amendment, that most of its problems could be fixed by additional appropriations or administrative changes that this administration is not willing to make.

Recognizing reality, I decided to enter into good-faith negotiations with

my chairman, and that is what they were. I salute the manner in which the gentleman from California conducted himself and the manner in which his staff treated the minority during this entire process. It was a fair process; and, indeed, when we had problems, we found open communication was received from the other side of the aisle, and I appreciate that. In the end, however, we could not reach agreement.

I do not support the pending legislation, but I must admit that we have come a long way. Yet we still have differences that divide us, differences in some instances that I have yet to discover. In fact, the manager's amendment has been redrafted so many times, the latest version is still hot off the presses.

I wish the bill, because of these latest changes in the manager's amendment, were not being rushed to the House floor. I wish that the driving force was not the zeal to pass anything that could be labeled ESA reform, but instead could be labeled truly species recovery.

With a little more time to consider how much this bill is going to cost the American taxpayers, we could at least have had a chance to see how much we are going to lose in the exchange. In the last several hours, the bill passed out of the committee has completely blown apart. For example, the manager's amendment abandons the definition of jeopardizing a species we agreed upon in committee. Instead, the Secretary of the Interior will use existing regulations which allow Federal actions to proceed, even if they will reduce the likelihood of a species' survival and recovery. The survival standard is akin to keeping a patient on life support without any chance of recovery.

According to the Congressional Budget Office, if this is enacted into law, it will increase direct spending and would cost almost $3 billion to implement from the years 2006 to 2010.

So in my view, this bill offers endangered species less protection at far greater cost. Not only was fiscal responsibility thrown to the wind in this process, but we have turned back the clock to an era in which DDT was commonly known as ''drop dead twice.'' H.R. 3824 includes a provision adopted in the Committee on Resources that would repeal the Endangered Species Act provisions that protect threatened and endangered species from the harmful impact of pesticides.

H.R. 3824 would insulate those who use pesticides from the Endangered Species Act prohibitions against killing endangered and threatened species. As long as corporations comply with Federal requirements to register pesticide users, they will have no obligation to meet the requirements in the Endangered Species Act. The economic and environmental implications of this provision are staggering.

But where the budget really leaks is from the gaping hole created by a new, potentially open-ended entitlement program for property developers and speculators. This, I might add, is where we truly broke down in our negotiations.

Section 14 would establish the dangerous precedent that private individuals must be paid to comply with an environmental law. If this language were applied to local zoning, no mayor, no city council could govern a community without fear that their decisions might drive the community into financial ruin. This section pays citizens to comply with the law. What is next, paying citizens to wear seat belts, to comply with speed limits, to pay their taxes?

This bill also contains provisions that would severely weaken the consultation process, the very heart of the ESA. Under current law, the Fish and Wildlife Service analyzes a proposed action to gauge if it is likely to place the continued existence of a species in jeopardy. The process is grounded in science and must meet reasonable criteria.

This bill, quite to the contrary of current practice, wipes away any standards for that process. It wipes away review by wildlife experts. Gone. Proponents claim this change is justified because of the service's heavy workload. Instead of fixing the problem by giving Fish and Wildlife more resources, the bill simply changes the rules and undermines species recovery.

Finally, Mr. Chairman, I oppose another provision that would further weaken the section 7 consultation requirement when applied to state cooperative agreements. Under section 10 of H.R. 3824, no additional consultations will be required once the Secretary enters into a cooperative agreement with a State. It is questionable whether consultation would ever occur, even in those situations causing jeopardy to a listed species.

These provisions, taken together, raise a whole host of questions and concerns. What is clear is that this bill will not improve species' ability to recover. Quite likely it will result in more extinctions, the loss of more of the creatures God has placed in our care. Frankly, we cannot be good stewards of His creation and pass this bill.

For these reasons, Mr. Chairman, I strongly oppose H.R. 3824. However, I have worked, as I said in the beginning, well with the gentleman from California on this bill; and I do salute his tenaciousness, his patience, and his courage in bringing this bill to the floor.

I would have preferred we keep trying to resolve our differences, but that is not the situation we are in today, so I would urge my colleagues to oppose H.R. 3824.

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

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I want to thank the gentleman from California for keeping this issue on the front burner.

I have come to learn in my time in Congress that people support reform, as long as it does not change anything, and that is what we find with the endangered species reform.

I thought I was given a great honor when I first got here in the year 2001. The gentleman from Alaska (Mr. YOUNG) of the Committee on Resources put me on the study group to talk about the Endangered Species Act, to try and finally get it off the dime. The gentleman from West Virginia (Mr. RAHALL), the gentleman from Michigan (Mr. DINGELL), and the gentleman from California (Mr. GEORGE MILLER) were the Democrats; and the gentleman from Alaska (Mr. YOUNG) and the gentleman from California (Mr. POMBO) and myself were the Republicans, and, unfortunately, it took us literally 6 months to finally agree what time to meet and where.

The difficulty with the Endangered Species Act is it is failing endangered species. Anytime you start getting T-shirts and bumper stickers and jokes about a law, you know you have got a problem. I brought along a shovel today because the biggest joke in Montana is shoot, shovel, and shut up.

The problem is there are those that want to protect species. They do not want them to become extinct. They want to do the right thing. But this Congress many years ago created a disincentive to do the right thing, rather than an incentive; and if you learn anything about public administration or government, when you create a disincentive, usually you are pretty successful.

We are not saving the species we need to. We need to get off the dime. We need to finally solve this issue. Everybody recognizes it is broke. We can no longer use the excuse that it is just not exactly what we want. It is time to end the joke of shoot, shovel, and shut up.

I want to thank the gentleman from California for bringing this issue forward and finally getting off the dime and giving us an opportunity to vote for a reform package that truly does what we need to do, and that is save the species of this country.

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

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Chairman, would the chairman of the Committee on Resources agree to enter into a colloquy?

Mr. POMBO. Yes, Mr. Chairman, I would.

Mr. HERGER. First let me say to the gentleman that I am very appreciative of his efforts here to make the ESA a better law.

Mr. Chairman, it is my understanding that the legislation would provide the President the authority to waive or expedite any provision of the act in the event of a major national disaster. I also understand that the legislation would require the Secretary to

develop regulations establishing procedures for an expedited application or waiver of the act for agency actions that would be undertaken to address threats to human health or safety.

Mr. POMBO. The gentleman is correct.

Mr. HERGER. I thank the chairman.

As you know, Mr. Chairman, a terrible situation occurred in my district in Northern California several years ago where a levee that protects one of the communities I represent had deteriorated to such a point that the Corps of Engineers predicted that this degraded levee, without repair, presented a threat to human life. Regrettably, repairs to that levee were unable to proceed in a timely manner due to the lengthy consultation process, even though this very serious warning had been issued by the corps. I am sure the chairman has heard of other similar examples where the application of the Endangered Species Act has complicated or delayed urgent and targeted levee repairs from occurring when they are needed to protect people from flooding.

Mr. POMBO. Mr. Chairman, I am certainly well aware of the situation that the gentleman is speaking to. I was a Member of Congress at the time that that levee broke and tried at that point to help the gentleman to take care of that problem before it broke.

Mr. HERGER. Mr. Chairman, it is my understanding that the Secretary currently has in place emergency regulations that allow for expedited consultation in the event of an immediate threat to public safety, as, for example, when the floodwaters are rising and are feet or perhaps even inches away from breaking or breaching a levee.

Is the chairman's understanding that the intent of the legislation is to require the development of additional regulations that would allow the Secretary to expedite the application of the act for agency actions necessary to address threats to human health or safety?

Mr. POMBO. The gentleman is correct.

Mr. HERGER. Mr. Chairman, I thank the gentleman for that clarification.

Again, Mr. Chairman, I want to commend the gentleman for his leadership and years of work he has invested in making the Endangered Species Act a more responsive and effective law.

□ 1315

Mr. POMBO. Mr. Chairman, I ask unanimous consent to allow the gentleman from California (Mr. CARDOZA) to have 20 minutes of my time and to control that time.

The CHAIRMAN. The gentleman is advised that the Committee of the Whole is not able to entertain such a request.

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

Mr. Chairman, in response to the last colloquy that just took place between the two gentlemen from California in regard to emergency powers that would be granted the President to waive provisions of the Endangered Species Act, I just wanted to respond that the Endangered Species Act did not get in the way in any manner whatsoever of recovery efforts in response to Hurricanes Katrina and Rita. Whatever provisions that were needed to be waived were waived under current law, without any additional authority being needed by the President.

So I just wanted to make that clear for the record that ESA did not hamper any recovery efforts for any of the most recent hurricanes.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. GRIJALVA), a distinguished member of our committee.

Mr. GRIJALVA. Mr. Chairman, today I rise in opposition to H.R. 3824.

In the 1960s, Rachel Carson's book ''Silent Spring'' documented the harmful effects of DDT and other pesticides on songbirds. This prompted a ban on DDT and the passage of the original Endangered Species Act. The ban on DDT, which the EPA said posed unacceptable risks to the environment and human health, saved the bald eagle and countless other species from going extinct.

Today we are considering a bill that would usher in another silent spring by eliminating the oversight for the registration of pesticides which harm wildlife and people.

H.R. 3824 contains a provision allowing EPA to consult with itself in determining the potential impacts of pesticide registration on endangered wildlife and fish, instead of consulting with the Fish and Wildlife Service or the National Marine Fisheries Service, which are the expert agencies whose mission is either in whole or in part to conserve species.

H.R. 3824 would take away the ability to stop pesticide use even when necessary to prevent extinction. Without existing checks and balances on pesticide use, the effect on wildlife could be devastating. Humans could be hurt too, because toxic pesticides are applied by farm workers that make their way into our Nation's streams, rivers, and food supply.

Pesticides poison 10,000 to 20,000 agricultural workers each year and are estimated to kill more than 67 million birds annually. But the EPA currently only requires balancing the profits from using a pesticide against the dollar value of harm caused by that pesticide. The Endangered Species Act, on the other hand, recognizes what almost all Americans believe, that no dollar amount can be placed on the extension of our Nation's treasured wildlife or on the human health of people who work in those fields.

The substitute to H.R. 3824 would leave existing law unchanged. It would leave in place current safeguards by requiring an analysis based on the health of wildlife, not the company's bottom line.

For this reason and many others, I urge my colleagues to join me in opposing this controversial bill and voting ''yes'' on the Miller substitute.

Mr. POMBO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GOODLATTE) having assumed the chair, Mr. SWEENEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, had come to no resolution thereon.

CONTROLLING TIME OF GENERAL DEBATE DURING FURTHER CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 3824 pursuant to H. Res. 470 that the gentleman from California (Mr. CARDOZA) may control 20 minutes of my time.

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

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3824.

□ 1320

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from California (Mr. POMBO) had 36½ minutes remaining and the gentleman from West Virginia (Mr. RAHALL) had 36 minutes remaining.

Pursuant to the order of the House of today, the gentleman from California (Mr. POMBO) has 16½ minutes remaining and the gentleman from California (Mr. CARDOZA) has 20 minutes remaining.

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

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

Mr. Chairman, when the Endangered Species Act was adopted by Congress in 1973, it was heralded as landmark use of environmental legislation for the protection and conservation of threatened and endangered species. At that time, it was clearly understood that the ultimate goal of the act was to focus Federal resources on listed species so that, in time, they could be returned to a healthy state and be removed from the list.

I fully support the goal of species protection and conservation and believe that recovery and ultimately delisting of species should be the U.S. Fish and Wildlife Service's top priority under ESA. I am in full support of the Threatened and Endangered Species Recovery Act that we are hearing today because I think it is an innovative and creative approach to ending the long-running conflict between protecting species and enforcing conservation actions on private land.

There seems to be no question that ESA is due for an update since the substitute offered by many of my colleagues eliminates critical habitat in much the same manner as H.R. 3824. For good reason, too. Currently, the system of critical habitat designations is so dysfunctional that it seems to defy logic.

For example, in 2002, the service proposed to designate 1.7 million acres as critical habitat in California and Oregon for vernal pool species. Almost one-third of the entire acreage of Merced County, where I live, would have been designated as critical habitat.

In 2003, the service proposed over 4.1 million acres in California as critical habitat for the red-legged frog. One must wonder, if it can be found on 4 million acres, then is it truly endangered; or, on the flip side, are all 4 million acres truly critical habitat?

The Threatened and Endangered Species Recovery Act will fix the problems associated with critical habitat by replacing it with a recovery plan which will shift the focus from litigation to biology and recovery; provide for greater cooperation between the service and landowners and States; establish new incentives for voluntary cooperation efforts.

Coming up with a thoughtful way to enable recovery of endangered species without costly litigation has been a top priority for me since being elected to the Congress, and I am pleased that this bill does just that. My original bill, H.R. 2933, from the 108th Congress, tied the development of a recovery plan to the designation of critical habitat. The Threatened and Endangered Species Recovery Act takes that idea one step further and elevates the recovery plan system to the primary mechanism to protect species.

I also feel compelled, however, to mention a few things that this bill does not do. This bill does not, and I repeat, does not weaken current law; it does not create a sweeping new entitlement program for landowners; it does not allow for pesticides to be used at random to harm farm workers and at-risk species; and it most definitely would not in any case allow for national treasures like the bald eagle and the grizzly bear to become extinct. That has been reported by a number of my colleagues, and it is simply not true.

In fact, I think many of my colleagues would be interested to know that my office has been inundated by representatives from so-called industry lobbyists requesting that certain provisions that were once included in this bill be put back in.

This bill is in no way a home run for anyone. In my opinion, it is a true balance between the sides, no side getting everything they want; and, when you achieve that, you usually have the best policy.

I think it is unfortunate that the media and some members of the environmental community have chosen to vilify this bipartisan legislation over the past few weeks and provide nothing but a knee-jerk negative analysis because they have already prejudged Chairman POMBO's bill as being the enemy.

Now we are here battling it out on the floor against one another, and another opportunity could be lost for us to move the ball forward together. I am proud of this bill, and I am proud of the work that Chairman POMBO and his staff have done to create a document that is truly a compromise, and it is a real shame we could not agree on these last few things.

Whether some people want to admit it or not, the ESA is not working to the best of its ability to protect the species, and it is our job as Members of Congress to do something about it. We can do better, and better is voting in favor of this bill.

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

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

Ms. WATSON. Mr. Chairman, we must protect what we can never get back. We are not only protecting wildlife, but we are defending our citizens as well.

The stringent regulations in the Endangered Species Act have benefited many species in our great country. Our national symbol, the bald eagle, is one of the most profound stories of recovery in progress. The American alligator, the Peregrine falcon, and the California condor are but a few examples of species that have benefited by the provisions in the bill. According to the United States Fish and Wildlife Service, nearly half of the species that had been on the list more than 7 years were stable or improving, and those are the facts.

Mr. Chairman, H.R. 3824 is full of giveaways to large development companies and other special interests. The Pombo legislation includes provisions that require the government to use taxpayer dollars to pay developers and other special interests not to violate the Endangered Species Act, instead of creating commonsense incentive programs that would foster greater involvement in conservation efforts.

Congress should choose to send a national message regarding the mindful stewardship of our country. If not, further abuses will occur as evidenced by Governor Schwarzenegger in my own home State of California. Tuesday, the Governor fired all six members of the State Reclamation Board, an agency that oversees flood control. The board had recently become aggressive about slowing development on the flood plains.

Is the Governor's protection of developers and big landowners worth the devastation that oversight can avoid? Congress would be wise to take notice, in light of the no-bid contracts, pleas to exempt all environmental regulations in the gulf States after Katrina, and the same old companies slurping up Federal funds in egregious excess.

Mr. Chairman, the gentleman from California's bill is not the legislation we need. It would also allow the unlimited use of dangerous pesticides at the expense of the people, plants, and wildlife. This bill would repeal all Endangered Species Act provisions that regulate the use of pesticides like DDT, which nearly resulted in the extinction of the American bald eagle in the mid-20th century and decimated the California brown pelican population in my own State.

□ 1330

We must protect what we can never get back.

Mr. Chairman, I strongly urge my colleagues to defeat this bill.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I congratulate the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CARDOZA) for their outstanding work on this legislation.

This legislation will reform the 1973 Endangered Species Act so that real species recovery can be achieved while minimizing conflict with landowners, businesses, public land managers, and communities, and particularly the farmers and ranchers of America that my committee represents.

Since the gentleman from California (Mr. POMBO) introduced this bill, we have heard groups on both sides of the issue recite statistics with the intent of proving or disproving the effectiveness of the law. Well, I do not believe I can change many minds simply by pointing out that over 99 percent of the species placed on the list are still on it. I would like to make a comparison that may put this dismal success rate in perspective.

If I, for instance, ran a hospital where only one half of 1 percent of the critical patients who checked in recovered, I could hardly claim to be doing a good job. What we need is an endangered species law that not only protects the species, but allows them to recover, to expand and to get off of the endangered species list as a thriving species. This is, however, the record the Endangered Species Act has today compiled, one where only one half of 1 percent of the species have recovered.

Its proponent, nonetheless, continue to claim that that is a success. Along with its glaring shortcoming, the law contains numerous unintended consequences that have proven to be extremely harmful to landowners and local communities. In fact, landowners have come to fear the Endangered Species Act as it has evolved into a giant regulatory menace.

Under the current law, the U.S. Fish and Wildlife Service has the power to halt lawful landowner activities if an endangered species is identified on their property and it is determined their actions would take that species. The landowner and his right to use his land are then simply left to the mercy of the courts.

Private property rights are fundamental rights embodied in the Constitution, and Congress periodically needs to take steps to ensure that government is protecting them, not trampling on them.

In my own committee, the Committee on Agriculture, we have recently examined another example of the infringement of property rights through the use of eminent domain. I commend the gentleman from California (Mr. POMBO) for working with us to address that problem as well.

TESRA achieves a balance between environmental concerns and property rights protection through its compensation and cooperative conservation provisions. Through these provisions, this legislation will fairly compensate landowners when they must forego use of their property and provide varied and unique ways to work with landowners.

The bill also makes other important changes, such as doing away with the Act's emphasis on designating critical habitat by placing emphasis instead on functional recovery plans. These reforms will not only be more effective in achieving species recovery, but do so in a flexible, non-adversarial manner. I believe the protection of endangered species is exceedingly important, however, a law that forces Federal wildlife officials to simply catalog declining species while alienating landowners and discouraging good management practices is a bad thing. Support this legislation.

Failing to improve the lot of species in more than 99 cases out of 100 isn't working. TESRA is a commonsense step towards improving and modernizing the 35-year-old law, and I urge my colleagues to support this important legislation.

Mr. CARDOZA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I rise in support of H.R. 3824. This legislation is a reasonable, balanced response that I think will address many of the unintended difficulties and consequences that have arisen since the passage of the original Act.

Over 30 years have passed since that time. That has given us an awful good opportunity to see what sort of insight and experience in terms of what has worked in preserving and protecting endangered species and habitat and what just as importantly has not worked.

California faces numerous challenges in complying with the Endangered Species Act, like many parts of our country. In California, we have 293 threatened and endangered species in the State, the second largest number in the Nation. We also have 11 million acres of designated critical habitat of which 30 percent of it is privately owned. In Kern County, part of which lies in my district, we have more listed species than any other county in the State of California.

To relay an anecdotal story of which there have been many here today, in 1995, we had a Chinese immigrant farmer who, believe it or not, was jailed and prosecuted due to an accidental taking of a species on his land that he had farmed for years. As a matter of fact, his tractor had been confiscated as corroborating evidence.

As a result of that, I and others in the California legislature led a successful effort to change the law to ensure that that would not happen again.

During the committee markup last week, I successfully passed two amendments that clarify local governments' role in participating in the development of habitat conservation planning. As we know, many of the habitat conservation plans have had difficulty in their adoption. The on-the-ground information from our local governments and water agencies and land use agencies is beneficial in the crucial input in the listing process and for trying to provide recovery efforts that are successful.

Mr. Chairman, the Endangered Species Act needs improvement, and I think this bill is a step in that direction. It obviously is a work in progress, but we should understand that the dilemma that we face in America today is that while we all want to protect native plants and species, the dilemma is that our population growth has threatened the habitats for many of those plants and animals, and therein lies the dilemma.

We must continue to work on efforts that I think are included in this legislation, realizing that we are going to have to revisit them in future years.

I applaud the bipartisan efforts of the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL) and their staff for working with all the members of the committee, and the gentleman from California (Mr. CARDOZA) for addressing the problems of the original bill.

I urge my colleagues to vote for its passage.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the Committee on Resources.

My amendment that I referenced a moment ago that was accepted by the committee is meant to assure that States and units of local government have fair input in the listing process for threatened and endangered species. Local governments, we know, often have the best on-the-ground information on the status of communities of plants and animals that are in the area.

This bill would formally recognize the local governments' rights to comment on the listing process and the acquisition of the best available scientific data. In many areas of California, we have water districts that are an extremely active part of the local governmental units that are involved in the species recovery process. The contributions that they make are many.

In order to understand the status and the challenges of the various species that are listed, is it the chairman's understanding that the reference to units of local government in section 8 of the bill would include water districts?

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

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

Mr. POMBO. Yes, that is our intention.

Mr. COSTA. I thank the gentleman very much for that clarification.

Mr. RAHALL. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from New Mexico (Mr. UDALL).

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

Mr. UDALL of New Mexico. Mr. Chairman, I urge my colleagues to support the Miller-Boehlert substitute.

Mr. Chairman, I rise today in support of the substitute amendment in opposition to H.R. 3824.

H.R. 3824 is being promoted as a piece of legislation that is good for business. As a senior member of both the Small Business committee and the Resources committee, I think I have an important perspective on this issue.

I would like to draw a parallel between the Endangered Species Act and landmark legislation that has been passed by Congress to protect the health and safety of workers. One could easily and logically argue, if they were so inclined, that child labor laws and occupational safety and health laws were bad for business. But we don't because we intuitively understand that supporting the very foundation of business, the people who do the work, is a long-term economic benefit for society, even though it may cost a few dollars up front.

That goes to the basic fact that practically every adult in America has worked hard at a job for a business or a corporation at some point in his or her life. All of us can easily relate to the problems caused by unfair labor practices and unsafe working conditions. However, very few of us are scientists. We are not a scientifically literate society.

I am not here to say whether that is good or bad but just to offer one explanation why we find it so difficult to grasp that the health of our environment and the continuity of all the pieces in our environment is as important to the health of our society and the strength of our economy as sound labor practices. Legislation that hurts the health of the worker is not

good for business. Laws, like the one being proposed today, that undermine the very foundation of our society's well-being and economic infrastructure, are not good for business.

When we undermine the basic tenets and goals of the Endangered Species Act, we do so at our own peril. Most of us in the House were alive in the early 1960s when Rachel Carson published her book, Silent Spring. The silence of which she spoke caused by the extermination of songbirds, dying because the shells that protected their offspring shattered long before the young were ready to hatch. The eggs shattered and the next generation died because DDT weakened the structure of the eggs. The spring, once filled with the sound of songbirds, was growing ever more silent as DDT began to pervade every corner of our environment.

DDT nearly exterminated our Nation's symbol of freedom, the bald eagle, because it shattered their shells. DDT nearly exterminated the endless flocks of brown pelicans flying low over the ocean's horizon, because it shattered the shells of their young. In my lifetime, I have witnessed the near extinction of these birds. And, thank God, I have witnessed their return because we banned that chemical.

Even though the birds have returned, did we ban DDT too late, because we all know that every one of us harbors residues of DDT in our bodies, that DDT is found in our mother's milk? Or, were the eagle and the pelican sentinels, helping us to right our wrongs just in time, before they disappeared from this planet and our own bodies weakened along with, them.

The Environmental Protection Agency banned DDT a year before the ESA was passed and here we are, 35 years later, about ready to pass a so-called ''ESA reform bill'' that would suspend all Endangered Species Act provisions related to pesticides.

The Endangered Species Act is really about a single species—us, human beings. I am not going to be dramatic and suggest that our species faces extinction. At six and a half billion and growing, I think the human species is going to be around for a good long time. But the existence of today's young people is not the existence I remember from my youth.

Bottled water, mercury poisoning the womb, rates of asthma attacks skyrocketing, beaches closed because E.coli pollutes the water and sickens our children.

The Endangered Species Act is not about saving the tiny silvery minnow that lives in the Rio Grande and it is not about saving the spotted owl that exists in mature forests. It is about alerting us to the fact that our rivers no longer sustain fish and our forest no longer sustains birds. The Endangered Species Act sounds the five-minute buzzer for humanity and says ''Watch out!'' Our fellow creatures are sickening. The animals that share our water, our air, our soils are dying. Something is wrong and we better do something about it before it begins to weaken and sicken us and we have to scramble to pick up the pieces.

Let me close where I began—whether or not a drastic weakening of the Endangered Species Act is good for business. The simple cost/benefit analysis often applied to endangered species protection only reflects what can easily be given a monetary value. This highly selective economic analysis only counts what can be most easily quantified—the cost of timber not cut, the cost of water not sold, the cost of crops not sprayed with pesticide.

These economic analyses do not account for the cost if environmental protections are not put in place—an aquifer that dries up, a hillside that erodes into a river, people stricken with cancer from unsafe pesticides. It is easy to hold up the first balance sheet and say, ''Business will suffer'' in the same way one could say that by prohibiting the labor of children, ''Business will suffer''.

But the cumulative costs of a thousand cuts into the environment that sustains us as humans will be borne by everyone in society, consumers and businesses alike. Without environmental laws, our economy polluted our rivers, darkened our air, paved our wetlands, and drained our rivers. The Endangered Species Act does not take property from private entities; it protects the property, the health and the wealth of all Americans.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. DINGELL), the dean of the House as well as the father of the Endangered Species Act, the ranking member on the House Committee on Energy and Commerce.

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

Mr. DINGELL. Mr. Chairman, I want to thank my dear friend, the gentleman from West Virginia (Mr. RAHALL), not only for his friendship, but for all the good things he has done on the matter of endangered species and other matters on nature and conservation of natural resources.

I want to pay tribute to my friend, the chairman of the committee. He has behaved in all manners in this connection with this, as he always does, as a complete gentleman. I greatly regret that we were not able to conclude our negotiations in a way which enabled us to together support this legislation. But he has made an honest effort and I want him to know of my appreciation and respect.

Having said that, endangered species is a very important piece of legislation that has worked well. It has served the Nation splendidly well. Large numbers of species which would have been extinct are saved by the fact that this has been in place. And the government now has the tools and guidelines for its behavior.

This is not new legislation. It passed in 1973. The gentleman from Alaska (Mr. YOUNG), the gentleman from Michigan (Mr. CONYERS), the gentleman from Wisconsin (Mr. OBEY), the gentleman from Ohio (Mr. REGULA) and the gentleman from New York (Mr. RANGEL) all supported it. It passed by a heavy bipartisan vote in the House. It passed 92 to nothing in the Senate.

I would note that there are few real differences between the substitute which will be offered shortly and the legislation as it is before us. They are, however, noteworthy. I would note that the success of the Act I do not believe would be furthered by the adoption of the manager's amendment, but it would be by the substitute to be offered.

I would note that there is reason to constantly review the legislative pronouncements of the Congress and to see how it is working and what needs to be changed to make it work better and more fairly. I would note that it is working well and fairly. 56 percent of the top prescription drugs in the world contain natural compounds from plants found in the wild, many of which come from endangered plants. We have saved large numbers of animals who might otherwise have been extinct. I would note that there are also economic benefits. In a sense, we do good by doing well.

I would note that wildlife has created recreation for more than $108 billion in revenue and more than a million jobs in both the public and private sector at the local and national level.

There are problems with this. Science is the core of ESA and should remain so. H.R. 3824 regrettably changes it so that scientific data do not work in the same fashion they do and it creates new layers of bureaucracy. It also creates impacts which are supposedly related to national security, which may be important in terms of the recovery plan but not in terms of whether the animal should be listed or the species should be listed.

Economics are treated in the same way. They become a part of the decisionmaking rather than in the creation of the recovery plan. It is unfortunate that the legislation allows threatened species to dwindle until they become endangered, making the problem of recovery still more difficult.

We can and we should address the real needs of small farmers, landowners, ranchers and others; and we can do this, I believe, without allowing unlimited claims upon the Treasury. This would, I think, entail an intelligent review of this matter, something which the gentleman from California (Mr. POMBO) and I tried to do.

I would note that the President has expressed concerns in his statement of the administrative policy on September 29 and he says, ''Requirements related to species recovery agreements, new statutory deadlines, new conservation and programs for private property owners provide little discretion to Federal agencies and could result in a significant budgetary impact.''

So if you want fiscally and financially responsible legislation, legislation which, in fact, protects the species, which is fair to all, which makes progress and which is close to the area of the legislation but which has broad citizen support, conservation support, and does move the process forward, I would urge my colleagues to support the substitute which will be offered by my colleagues, the gentleman from California (Mr. GEORGE MILLER), and the gentleman from New York (Mr. BOEHLERT). This is the way to go.

We can continue our efforts to try in good faith as has been done by both the

distinguished gentleman from West Virginia (Mr. RAHALL) and the distinguished gentleman from California (Mr. POMBO) to achieve good legislation which will again address the concerns of all while at the same time protecting and conserving species which we have no right to remove from this world.

□ 1345

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the Threatened and Endangered Species Recovery Act, H.R. 3824.

I want to first of all commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for what is very commonsense, bipartisan legislation; and I want to thank the chairman and his staff for all the long hours and the hard work they have put into this bill.

The latest figures I have show that my home State of Tennessee has one of the highest numbers of listings on the endangered species list. As my colleagues can imagine, this is a very big issue in my State.

I think everyone has read and heard horror stories about ridiculous rulings that have come out over the years, very unfair rulings, under the Endangered Species Act. The burden of compliance under present law is, by far, the hardest for the smallest of our landowners.

It is a simple fact that the existing law hits the hardest on the small- and medium-size farmers and ranchers and landowners, and these are the people least able to fight it.

The wealthiest people and the biggest corporations always seem to be able to get their way. They have enough money, and compliance with the law is either a simple nuisance or just a small cost of doing business. I think, and the fact is, that the way the present law is, it drives out a lot of the competition for the big guys by getting rid of some of the little guys.

I think that anyone who approaches this legislation with a truly open mind would call this a very moderate bill. In fact, in almost any other country in the world, H.R. 3824 would be held as great environmental legislation.

The United States has made greater progress in regard to environmental protection than any other country in the world in the last 30 years. Yet there are some extremist groups that simply cannot seem to admit we have made this progress.

Right now, these groups are telling their members how terrible this legislation is. However, if we look at their mailings, they always tell their members how bad things are, and I think it is probably more related to fund-raising and money than it is to actual concern about endangered species.

If people want to both protect endangered species and not force small farmers or small landowners off their land and force them to sell to big developers or big government, then this is balanced legislation that will accomplish these goals.

Mr. CARDOZA. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. BACA).

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

Mr. BACA. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for this legislation.

This legislation modernizes the Endangered Species Act, or ESA, to allow for more scientific review, better conservation plans, and to focus on a recovery process that is based on collaboration and not conflict.

After more than 3 decades, the ESA has failed. This legislation is a bipartisan effort to fix the flawed law.

Less than 1 percent of endangered species have recovered, less than 1 percent. The ESA has only helped 10 of 1,300 species listed under the law. Thirty-nine percent of the species are unknown. Twenty-one percent are declining, and they are declining, and 3 percent are extinct. This law has a 99 percent failure rate.

We need to update. We need to update and modernize the ESA to strengthen the species recovery by turning conflict into cooperation and allowing the use of sound science.

In the Inland Empire, the ESA has prevented or increased costs for freeway interchanges, economic development, and things as simple as trash removal. There are certain areas that are blighted in portions of our communities. It is like walking into a mine. You have got to watch every step that you take because you are afraid you are going to step on an endangered species.

In my district, we have two infamous endangered species. I want to point to one, the Delhi sand flower-loving fly, and of course, the other one is the kangaroo rat.

Look at this fly. If anyone were to see this fly, we would swat it. It is our first, immediate reaction, and we have always heard the buzz at night when we hear a fly. We do not stop to look at it to see if it is an endangered species. Immediately we react; we swat it.

Now, when we look at this fly, and it was buzzing around, I would swat it. What would happen if a cow swatted this fly? Would we fine the cow or the owner? It seems pretty ridiculous, I say.

ESA has many ridiculous examples. As we can see in these posters next to me, the fly costs San Bernardino County Medical Center $3 million to move the hospital about 200 feet when the fly was found in the property. That is about $600,000 per fly. Can my colleagues imagine what it would do to our communities, $600,000 to move a hospital? They reserved a certain area that is full with blight that is overlooking the hospital.

Also in my district, ambulances driving to this emergency room at Arrowhead Medical Center need to slow down so that the endangered flies will not hit their windshield. Can my colleagues imagine someone who needs emergency services cannot get to the hospital, has to slow down because they are afraid this fly might run into the windshield? That is ridiculous. It is about a life that we need to save, not a fly.

It has even been suggested that traffic be slowed down on Interstate 10. Interstate 10 goes into Palm Springs. It is a route that moves traffic back and forth. It is ridiculous. They are saying, all right, this fly only comes out between July and September. So people are suggesting when we travel on that freeway that you should reduce your speed limit from 65 to 25 miles an hour because we might endanger this fly and hit this fly. Can my colleagues imagine the traffic congestion in the area, the impact it would have in that area, on the flow of goods and others that would not be able to be moved? That is ridiculous.

The Inland Empire is indeed species rich, but we have been hit hard by jobs lost by ESA. That is why we need to take into account the human cost.

For example, in the cities of Colton and Fontana, California, a handful of flies, yes, flies are responsible. The city of Fontana alone has spent $10 million in legal fees associated with the ESA and has been forced to put aside $50 million worth of land that has been intended for development. A scrapped commercial center with a supermarket would have generated $5 million in revenue.

Can my colleagues imagine what this would have done to the area, better schools, more police officers, new fire stations, teen centers, paving the streets, fixing our potholes? Yet we have not been able to generate the kind of revenue that we need.

The ESA is related to the development that led the city to default on bonds. Will the Federal Government restore the city's credit rating? No. It has hindered us.

Imagine if endangered species suddenly thrive in the areas flooded by the hurricanes. Do we stop the hurricane construction?

This law affects more people than what we think. Think of the farmers not able to harvest their crops because an endangered species is found in the field.

Local cities have offered land for habitat, changed development plans and tried to partner in that process; but ESA, as written, will not permit that.

I support this legislation, and I think this is good legislation. I ask my colleagues also to support the passage of this.

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

Mr. Chairman, there is probably not a Member of this body that cannot get up and tell some horror story with the current administration of the Endangered Species Act. We all agree there is need for reform and change.

The previous gentleman, while not speaking to the legislation whatsoever, should take note, and he has referred to the cost to a hospital in his district that had to pay some enormous costs, but it is important to realize anytime we allow species to go extinct we lose enormous potential to understand and improve our world and to create medicines that many times can save people's lives. Nowhere is that more evident than in the world of medicine.

I have my chief of staff who has returned from the hospital, thank the Lord to many medicines that have been produced from nearly extinct species. It has made him well and brought him to this floor, and I could go down the list. There are a number of important medicines, including possibly the next effective treatment of cancer, AIDS, or heart disease that can come from species that we are trying to protect and save on this world.

Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Washington (Mr. DICKS), ranking member on the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations and a member of my class.

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

Everybody has been talking gloom and doom about the Endangered Species Act. Let me give my colleagues a few success numbers. This comes from the National Wildlife Federation.

According to the National Research Council, the Endangered Species Act has saved hundreds of species from extinction. A study published in the ''Annual Review of Ecological Semantics'' calculated that 172 species would potentially have gone extinct during the period from 1973 to 1998 if Endangered Species Act protection had not been implemented.

According to the Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act remain on the planet today. That is not a failure. That is an enormous success.

According to the U.S. Fish and Wildlife Service, of the listed species whose condition is known, 68 percent are stable or improving, and 32 percent are declining. The longer a species enjoys the Endangered Species Act protection, the more likely its condition will stabilize or improve.

Now, I just want to say something. Everybody has been saying that H.R. 3824 has been this great effort in terms of collaboration, and I respect that. I respect the way that the chairman and the gentleman from West Virginia (Mr. RAHALL) have approached this thing.

I come from the State of Washington. No part of the country has been more affected by the Endangered Species Act than the State of Washington with the spotted owl listings and the marbled murrelet listings; but I believe that this legislation, H.R. 3824, is a step backwards. It is not going to help protect these species that we want. It will hurt them.

I think that the ESA should be reformed in a responsible manner. In fact, the substitute amendment that I have cosponsored with the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. BOEHLERT), and others that will be debated later today embodies those kinds of practical reforms which still provide us the kind of potent tools necessary to prevent extinction of species and to work towards their recovery.

There are some aspects of this bill that I agree with to a point. Over time, many supporters of the ESA have come to question the way in which habitat is designated as critical in order to help species recovery. While it is vitally important that habitat be set aside, these critical habitat designations have led to much controversy.

The substitute amendment also eliminates the critical habitat designation, but replaces it with the requirement that the Interior Secretary identify specific areas that are necessary for the conservation of species and then enforce these designations.

In addition, the substitute amendment will require that Federal land be considered first for designation as habitat necessary for a species' survival and recovery before private landowners are burdened.

Another provision of this bill is one offered by my friend from Oregon, but the idea that we are not any longer going to have EPA consult on pesticides is a tragic mistake. This is enough to defeat this bill in its own right. This is a terrible mistake. Sixty-seven million birds each year die because of pesticides; and if we let this pesticide provision be enacted, it will be the most damaging thing I can think of for birds and other wildlife.

□ 1400

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, the Endangered Species Act is broken and needs to be fixed. Those are not my words, those are the words of a city counselor from Santa Barbara, California. In a hearing we had on endangered species last year, she described California as being the greenest State, Santa Barbara as being the greenest of the cities in California, and she as being the greenest of the green. She said that the Endangered Species Act is blocking people from making additions onto their homes, it is keeping the beach closed, it is stopping development in their town, and they are tired of it. They either want it eliminated or fixed.

Elimination of the Act is too extreme. The gentleman from California (Mr. POMBO), our chairman, has taken a very good stance in reforming it. In New Mexico, we have the silvery minnow. In order to keep the flow in the Rio Grand River at the level that the biologists said we had to have, we had to release storage of water that had been building up for 50 years in four different reservoirs. And storage for water like that in New Mexico is not easy to get. When we empty those, we cannot maintain the flow. So one of the most important provisions in this bill is that sound science must be used for any decision.

We also are affecting the outcome for our private property owners, and so I thank the gentleman for his hard work on this and I support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentleman from the great State of Oklahoma (Mr. BOREN).

Mr. BOREN. Mr. Chairman, I rise today in support of this important very important reform legislation because it is an issue that is very important to me and many of my constituents in my district.

As we all know, the challenge we face in reforming the ESA is to create a balance between the important goal of conservation and preservation of our Nation's species and making sure property owners, businesses, workers and communities do not suffer unnecessarily for these efforts. Under the current structure of the Endangered Species Act, these two goals have unfortunately been at odds and have been a barrier to important economic development.

By reforming the current law, we have the opportunity to craft balanced legislation that brings all stakeholders together in common interest. I feel strongly that this legislation achieves that balance and, therefore, should be approved.

A community in my district seeking this balance is Durant, Oklahoma, which is in part of the ''historic range'' of the American burying beetle. The leaders of Durant have worked hard and have had success in bringing business to their area of far southeastern Oklahoma, but each year, the construction of new sites for these businesses is brought to a screeching halt, always looking for the burying beetle, but no presence of the beetle has been found for a number over years. This disruption costs the community time, money, and the potential for future job growth.

There must be a better way to balance the needs of the species and the needs of the communities. This bill provides important reform. It does not gut the law, but actually continues to provide important protections for endangered species which we all care about deeply. This reform should improve the recovery process and provide real success in saving our national treasures.

I commend the hard work of those who have brought us here today.

Mr. RAHALL. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in opposition to the Threatening Endangered Species From Recovering Act.

This legislation, as many of us know, will do nothing to improve our ability to help species recover. As a matter of fact, this legislation will repeal all Endangered Species Act provisions that protect threatened and endangered plants and wildlife from the harmful impact of pesticides.

Let us focus on this for a moment. Every schoolchild in America is aware that pesticides are threatening to birds. Our own national symbol, the bald eagle, is threatened with the provisions of this bill that would repeal the pesticides provisions that currently exist and which help protect endangered species. We would not spray pesticides on a bald eagle, would we? And if we would not do that, why would we vote for this bill? Pesticides have played a large part in the decline of many species, including the bald eagle.

The bald eagle is the symbol of our national unity. There is something about the Endangered Species Act which represents something even greater than talking about plants and wildlife. There is a recognition that plants and wildlife and human beings are all part of the same interconnected process; that we are interdependent; that we are all one. To act as though plants and wildlife and insects are just here for our use, for our commercialization, for our disposal actually rejects our own humanity. There are deeper questions here about who we are as human beings that are reflected in legislation like this.

I could talk for a while about how this bill is going to provide giveaways to developers at the expense of wildlife and endangered species. I could talk about how it is going to require the government to use taxpayer dollars to pay big developers to not violate the Endangered Species Act. I could talk about how this Threatening Endangered Species From Recovery Act would call for a tentative schedule for developing recovery plans for species that are currently protected. I could talk about all that, but I want to stress that what we are really doing here in voting for this bill is rejecting the whole idea of interdependence and interconnection; rejecting the idea of a bald eagle which stands for national unity and that we are all together.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time, and I appreciate the chairman's efforts to reach across the aisle and produce a true bipartisan bill, and I thank the gentleman from California (Mr. CARDOZA) for working on this.

If any of my colleagues have served on the Committee on Resources, as I have, you know that this is a truly bipartisan bill. The gentleman from West Virginia mentioned that everybody can find an example of how the current ESA is out of whack, and he uses that as an excuse not to move forward with a bill that reforms it. I would say that that is precisely the reason we need to reform it, because everybody can find not just one but two or three or a dozen examples in their own State of how the current law is not leading to recovery, but it is, rather, tying people up and making individuals and organizations simply pay for a regulation rather than recovery.

The purpose of this bill is to lead to the recovery of species, and that is what this is all about. My own State of Arizona has had its own issues with the Endangered Species Act. Many times, those who manage water resources have been tied up with regulation that has required them to spend money on that rather than the recovery of species. This will make it far easier to do that.

This bill will also mean a deal between a landowner and a Federal agency is a deal. So for many reasons, I would support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Chairman, I thank the gentleman from California for yielding me this time, and I wish to engage the chairman of the Committee on Resources in a colloquy.

For many years, Mr. Chairman, the U.S. Army Corps of Engineers has engaged in river management practices that have harmed several species of native wildlife that live in and near the Missouri River and undermine the economic livelihood of many communities along the upper Missouri River basin. My State, and others in the upper reaches of the basin, have repeatedly endeavored to influence the decisions of the Corps as it makes critical river management decisions.

The interagency consultation provisions found in the current law are one of the few tools at our disposal. So I am concerned that the alternative procedures defined but not specified in section 12 of the Threatened and Endangered Species Act would create a way for the Corps to disregard the consultation requirement, and I want to make sure the alternative procedures provision is not designed as a way to eliminate consultation between Federal agencies.

Therefore, under the new bill, would the Corps be required to manage the Missouri River in a manner that meets current standards under the ESA?

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

Ms. HERSETH. I yield to the gentleman from California.

Mr. POMBO. Yes, they would.

Ms. HERSETH. Mr. Chairman, I thank the gentleman for recognizing my concern and clarifying the intent of the bill. I am satisfied the bill will not weaken the interagency consultation requirement, and I appreciate your consideration.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), a very valued member of our Committee on Resources.

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

Mr. INSLEE. Mr. Chairman, I think it is appropriate to refer to the first Endangered Species Act in Genesis. ''Bring out every kind of living creature that is with you, the birds, the animals, and all the creatures that move along the ground, so that they can multiply on the earth and be fruitful and increase in number upon it.''

Are we acting in the spirit of Noah when we purport to vote, some may vote, for a bill that would prevent protecting the bald eagle from pesticides, when DDT almost removed it from the treasure-trove of American icons? Are we acting in the spirit of Genesis? I think Americans think we are not. When we act to remove any meaningful enforcement provisions to protect the habitat, are we acting in the spirit of Genesis? Americans think not.

What is a fish without a river? What is a bird without a tree to nest in? What is an Endangered Species Act without any enforcement mechanism to ensure their habitat is protected? It is nothing. This is not a modernization of the Act, this is a euthanization of the Act, and I will tell you why.

The underlying bill says that we are going to have these maps of habitat that will be developed, and that is a wonderful thing. And under the bill, as written, the maps will hang on the walls of these agencies in beautiful pink and blue, and the Cub Scouts and the Girl Scout Troops can come through and look at the beautiful maps. But it has one missing thing. If we pass this underlying bill, we would have removed any single legal enforcement mechanism that those maps had whatsoever. The bipartisan amendment will say that those maps have some degree of teeth.

This underlying bill is a chimera. It is a total falsehood to say it does the first thing for habitat because there is no enforcement mechanism for those maps.

I want to tell my colleagues of a woman who was in my office the other day. She wants habitat protection so she can see those salmon. And just to make sure no one thinks this is just some esoteric thing, her name is Gail and she lives in Miller Bay in Washington State, Kitsap County. She told me about the thrill of seeing the salmon going up the stream on Miller Bay, and they do that because we have an enforceable mechanism to protect habitat. She knows that if we pass this bill, we will remove the ability to protect the streams. We remove the enforcements mechanisms.

Mr. Chairman, that is why we need to do this substitute, which has a better way of identifying habitat in the recovery process so we do not have this frustration with the landowners, so we do not waste 3 years just bothering landowners and not recovering species, but we have a mechanism to get this job done.

I want to reiterate what the gentleman from Washington (Mr. DICKS) suggested. To suggest that an Act that saves 99 percent of the species from extinction is a failure is not a way to keep score. If you want to know how to do more, let us make sure that the executive branch enforces this law. Clinton listed 500. The first Bush listed 250. This administration has done zero without a court order.

Let us pass the substitute bill and reject this underlying bill. Honor creatures, honor the taxpayer, honor yourself.

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

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

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise as a Member probably more affected by this law than anybody else in the United States Congress. I probably represent more critical habitat in the coastal counties of Monterey Bay than anybody. That is the Big Sur, Carmel, Pebble Beach, Santa Cruz region.

That critical habitat has made us a lot of money on what is watchable wildlife. Watchable wildlife is the largest business, fastest-growing business in the United States. Of all the sports in this country, watchable wildlife exceeds them all. This bill undermines the greatest economic asset we have, which is our natural things by creating a new issue on takings.

You argue the bill is broken because the administration has not been able to administer it.

□ 1415

Well, it is not the bill that is at fault; it is the United States Congress and the President of the United States that are at fault.

I am on the Committee on Appropriations, and in 2003 the Fish and Wildlife Service said it needed approximately $153 million to address the critical backlog of listings of critical habitat; yet the President only asked for $18 million. This is the way to kill an organization. You do not fund it, and say, look, the law does not work, you have a backlog.

So let us take the law. Every city councilmember, every city supervisor in the United States ought to wake up and look at this law because now they give full development rights under this law. If you do not like the way the law is, you have trees in your backyard that the government says, the community says you ought to preserve, you do not have to worry about that now because you can say that is a taking.

Pebble Beach, cut all of your cypress trees and pine trees, which are the Monterey cypress and the Monterey pines, because now instead of beautiful scenery, you can build hotels all over that land. And if they do not allow you to do that because of the trees, the government will pay you.

Mr. Speaker, guess what, the government has no money. It cannot even pay the bureaucrats that are responsible for carrying out the law. This bill is a gun to the head. This bill says if you do not grant that development, by God, government, you have to pay it. The lawyers say, government, you have no money, you better grant the request.

This is a full development rights. It is an attack on America's greatest heritage. It endangers wild and scenic species.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, in Washington everything looks perfect on paper and people hate to admit they made a mistake; but the truth of the matter is how it works in real life is completely different, and we have a responsibility to make those changes.

I strongly support this recovery act and thank the gentleman from California (Mr. POMBO) for his leadership and the gentleman from California (Mr. CARDOZA) for his hard work. My east Texas district, which was hit very hard by Hurricane Rita, is jam packed with trees. The piney woods are our heritage. They are our economy; and they provide habitat for the red cockheaded woodpecker, among other endangered species.

But for decades, responsible landowners have been afraid that the Federal Government would swoop in and take their livelihood away for the sake of this bird due simply to the outdated and unsubstantiated burdens of the Endangered Species Act.

America's farmers and ranchers and private property owners in east Texas have spent long enough fearing the Federal Government. Unfortunately, current law has created incentives for landowners to destroy species habitat to rid their properties of liability. I strongly support this measure.

Mr. CARDOZA. Mr. Chairman, I yield myself 1 minute to engage in a colloquy with the gentleman from California (Mr. POMBO).

Mr. Chairman, I believe it is critical for us to make sure we do not change the regulatory landscape on property owners regulated under existing law. These individuals, our constituents, are committed to doing what the Federal Government asked them to do in order to secure authorization to proceed with various activities. We should not require those same landowners to renegotiate what they have already agreed to under the new rules of this bill after it is enacted.

Based on that premise, I believe the Threatened and Endangered Species Recovery Act should include a grandfather clause to cover any ESA permits or approvals issued prior to the date of enactment of this bill, not just habitat conservation plans.

I would inquire, is that the intent of the gentleman from California (Mr. POMBO)?

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

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

Mr. POMBO. Mr. Chairman, that is the intent, yes, sir.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND), a valued member of the Committee on Resources.

Mr. KIND. Mr. Chairman, I appreciate the approach that the committee is taking in trying to revamp and revise the Endangered Species Act. This has been a vitally important and successful act throughout recent decades. And while there is wide agreement here on the House floor that it should be amended and tweaked and improved on in light of past experience and modern times, we need to do it responsibly; and I believe that responsible approach is better reflected in the substitute that is being offered here today.

Unlike some in this Chamber who believe that the Endangered Species Act has been an unmitigated failure, there are countless success stories around the country. In my home State of Wisconsin, an example of how well it has worked, working with local officials and the stakeholders involved, the Higgins eye mussel has come back in the Mississippi River, which acts as a great filtration system in the river basin. The Karner blue butterfly, on the verge of extinction in Wisconsin, due to the Endangered Species Act and the recovery plan that was in place, is making a healthy comeback.

The whooping crane is making a strong comeback in the Necedah Wildlife Refuge, as has the granddaddy of them all, which has been referenced here today, the American bald eagle. If Members would like to see some bald eagles, come to western Wisconsin along the Mississippi during the spring and fall ice flows, and you will see literally thousands of them. There are new nests that are going up in habitat where they had never been found before. They are on the verge of being delisted because of their success story. EPA identified the adverse effects of DDT, Congress took action, and the bald eagle is resurging today.

And the grizzly bear that is about to be delisted in Yellowstone and portions of Montana from the threatened species list, I can personally attest to the strength of their comeback, having just been in Glacier Park in August and coming within 20 yards of a big grizzly bear and her two cubs. Fortunately, I was able to retreat, or I would have been a threatened or endangered species during that time.

The act has worked, and the point is there is a responsible approach that recognizes the bureaucratic red tape that we streamline, working with private property owners and also putting in place a strong recovery plan for species that makes more sense. That is the substitute. I encourage my colleagues to support the substitute.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I serve a very rural district, a lot of landowners. Currently, a landowner with an endangered species on his land often sees the species as a threat to his survival. That is not good for the species, and it is certainly not good for the landowner. It is not working. It is largely adversarial. H.R. 3824 provides incentives for landowners to preserve endangered species, and this will help the species, and it will help people as well.

In 1978, 50 miles of the Central Platte River in Nebraska was designated as critical habitat for whooping cranes. Only 3 to 4 percent of the whooping cranes visit the Platte River annually. The great majority of whooping cranes never see the Platte River, never visit it at all; and so many have questioned this designation because this designation has led to a cooperative agreement between Nebraska, Colorado, and Wyoming involving thousands of acres of lands, hundreds of thousands of feet of water to support critical habitat; and it is still not complete after 8 years of spending millions of dollars.

So we have case after case after case like this where this thing simply is not working well. Hopefully, applying the best available current science required by this legislation will improve this process. I think it will. I thank the gentleman from California (Chairman POMBO) for his efforts, as well as the gentleman from California (Mr. CARDOZA), and ask support for H.R. 3824.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

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

I, too, come from a rural area. The two major industries in my district are agriculture and fishing. So we know the landscape and people cooperate. The present ESA, maybe it is because we are on the east coast, the present ESA bill is working fine. I know we need to tweak it because it does not work the same way all over the place, but I would urge my colleagues to support the substitute. Here are some reasons why:

In the substitute, there are specific criteria for science laid out. Members want good science; the methods, procedures, and practices are laid out. What species should be determined endangered, there are five criteria laid out on page 4 of the substitute. Members should review all species that are designated every 5 years.

We have repealed the critical habitat designations, but we have replaced it with recovery plans found on page 20 of the substitute. It has time frames and objective, measurable criteria. It has a very specific description of where that species should be recovered, and the emphasis of where that species should be recovered is not private land; it is public land. The emphasis is on public land; but whenever you go on private land, there should be some restitution, some sharing of Federal dollars with those private landowners; and 10 percent of the appropriated amount on an annual basis of this substitute will go for that very specific purpose.

What if livestock are endangered or threatened by a reintroduced species? That is taken care of. Landowners are going to be reimbursed for that lost livestock.

What about national security? Take a look at the substitute. There is a very specific exemption. Page 43 of the substitute, there is a national security exemption.

I urge my colleagues to vote for a specific, balanced ESA bill. Vote for the substitute.

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

Mr. MORAN of Virginia. Mr. Chairman, I thank the ranking member, my friend, for yielding me this time.

''Shortsighted men, in their greed and selfishness will, if permitted, rob our country of half its charm by the reckless extermination of all useful and beautiful wild things.'' So said Republican President Theodore Roosevelt almost 100 years ago, and how relevant his remarks are today.

If we cannot find a way to live in harmony and conserve our natural resources in a sustainable way, we humans may, too, be doomed to extinction. The Endangered Species Act is a litmus test on the degree to which we are willing to conserve our livable environment.

To date this act has succeeded. Its success rate is 99 percent. Only 7 out of 1,200 species, according to Fish and Wildlife Service, have become extinct, and they became extinct because of their status before they were listed.

There are problems with the Act that need to be addressed, but many of the changes embodied in this bill are not designed to fix the problems. They are designed to eviscerate the law. The proposal before us today will gut the law by making any recovery plan unenforceable and by creating a new compensation program for those who own land that may host a threatened or endangered species.

We are a Nation of laws and constitutional rights, but where in the Constitution does it say property rights are an immutable and an open-ended entitlement?

Where would we be as a Nation if the law did not allow reasonable government regulations of private property without payment of compensation if undertaken for the public good? That kind of regulation occurs every day in every State in every locality throughout the country. It occurs as a result of practically every regulatory statute we pass. It is a long-standing principle of the jurisprudence of our courts. But this bill turns that principle on its head, and in so doing it creates a very dangerous precedent that this body should not knowingly adopt.

Section 13 of the bill establishes a new program of conservation aid; and under this program the government must provide compensation to landowners whenever an ESA restriction prevents a particular use of property, regardless of the fact that other uses of the property remain and those uses are very valuable.

This new aid program, therefore, requires the payment of compensation to landowners even though no governmental taking of their property has occurred. And rather than compensation being required where a restriction essentially strips property of all of its valuable uses, the standard under the takings clause, which exists today, this bill requires compensation whenever a restriction prevents a single use of property.

□ 1430

It is a standard for compensation that goes far beyond the standard imposed under the Constitution's ''taking'' clause, and it does not exist in any other Federal statute. If enacted, this bill will set a very dangerous precedent that could lead to the insertion of similar provisions in other environmental and regulatory statutes. It has to be rejected.

Mr. Chairman, as a member of the Interior, Environment, and Related Agencies Subcommittee of the Committee on Appropriations, I know that there are some problems with the implementation of this Act. The current ''critical habitat'' designation needs to be revised and should be established later in the process during the development of species recovery plans.

In that regard, the approach taken by the substitute put together by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Washington (Mr. DICKS) and others is the right way to go and should be adopted.

Mr. Chairman, Federal land belongs to all of us. The Endangered Species Act is a vehicle through which we can conserve our land and balance the needs of all against the short-term and destructive interests of the few. I urge my colleagues to oppose the Threatened and Endangered Species Recovery Act, but strongly support the substitute.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. PEARCE) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The Committee resumed its sitting.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Chairman, would the chairman of the Committee on Resources agree to enter into a colloquy?

Mr. POMBO. Yes, Mr. Chairman.

Mrs. CUBIN. Mr. Chairman, it has come to my attention that certain Federal agencies with permitting, licensing, and leasing authority are requiring some of my constituents to agree to stipulations in their coal leases that go beyond protecting threatened or endangered species. For example, before the Bureau of Land Management will issue a lease, they require the lessee to agree to potential modifications in the lease. These modifications can be based not only on species that are threatened or endangered, but also on species that are proposed to be listed, candidate species, and distinct population segments.

Section 10 of the bill authorizes cooperative agreements between Federal agencies and States that cover candidate species and any other species that the State and the Secretary agree is at risk of being listed as an endangered or threatened species. Is the intent of the legislation to broaden the scope of the ESA by allowing the government to regulate species that are not yet threatened or endangered by imposing new potential regulatory requirements, withholding of permits and licenses, or requiring special stipulations on Federal leases?

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

Mrs. CUBIN. I yield to the gentleman from California.

Mr. POMBO. No, Mr. Chairman. It is not in there.

Mrs. CUBIN. Mr. Chairman, reclaiming my time, I thank the chairman for his answer. That was the way that I read the bill too, and I wanted the congressional intent to be on the record.

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

Mr. Chairman, Psalms 104, verses 25, 30: ''In wisdom You made them all, the earth is full of Your creatures. There is the sea, vast and spacious, teeming with creatures beyond number, living things both large and small . . . When You send Your spirit, they are created and You renew the earth.''

Such is the appropriate Biblical quote, I say to my colleagues, that should guide our deliberations today on this particular legislation.

Species keep people alive. In the earlier comment, I stated that there are numerous Members of this body, perhaps to the person, who could tell of horror stories involved with the administration of the current Endangered Species Act. And while some of those stories are probably valid and have their good points, the current regime, as I also previously stated, has not been working. It has not been working because it has not been adequately funded nor administered by the current administration. Funding is a problem. Funding perhaps would have solved many of these horror stories to which Members of this body refer.

But this particular legislation, as we have heard throughout the debate on this general debate and we will hear more during the amendment process, is an expensive proposition. If we could not fund the regime that exists today that implements the ESA, how, I ask, are we going to fund an even more expensive regime that is set up by the pending legislation? A compensation program to property owners that truly is going to cause us to go further into deficit spending. The legislation would increase direct spending by requiring the Secretary of the Interior to pay aid to private landowners who are prohibited from using their property under certain circumstances. That means money, I say to my colleagues. That means appropriations from this body's Committee on Appropriations, at a time when we are finding tremendous costs being imposed upon the taxpayers that was unexpected 2 or 3 months ago.

At a time when we are already cutting Bureau of Reclamation projects, western water projects, Indian programs, our national parks. Indeed, there are some in this administration that would sell our national parks and other public lands in order to address our ever-mounting deficit. This legislation will only exacerbate our deficit problems.

And as I have said and referred to in earlier responses, why should we care about critters? Those who criticize this Act refer to the supporters of the Act as being more concerned about critters than human beings. I will tell them why we should be concerned about critters, why we should care about the Endangered Species Act.

Nowhere should that care be more evident than in the world of medicine. Anytime we allow a species to go extinct, we lose enormous potential to understand and improve our world. Nearly 50 percent of all our medical prescriptions, for example, dispensed annually in our country, are derived from nature or modified to mimic natural substances. Yet we have only investigated about 2 percent of the more than 250,000 known plant species for their possible medical breakthroughs. The extinction of a single species may mean the loss of the next effective treatment for cancer, for AIDS, or for heart disease. Mold fungus led to the development of Penicillin over 50 years ago. Mold fungus, it has saved countless lives in recent generations, and it continues to do so every day. Morphine and codeine, both made from poppy plants, are among the most widely used medications in the world today. Venoms from snakes have led to important medications, including an important drug to control blood pressure.

Even insects have their value in medicine. We now know that the genes that turn out to form a heart in a fruit fly are actually the same genes that form hearts in higher animals and people.

Again, quoting from the Bible, from Ecclesiastes: ''Man's fate is like that of the animals; the same fate awaits them both: As one dies, so dies the other. All have the same breath.''

Mr. Chairman, at the appropriate time, I will be speaking on the manager's amendment and I will also be speaking in support of the substitute amendment that will be offered. As I said in my opening comments, I introduced these negotiations in good faith with the gentleman from California (Mr. POMBO), my chairman, because I thought there was not adequate funding to enforce the current endangered species law, and those negotiations were conducted in good faith, and we came quite close, and he will say probably that 90 percent of the current bill is a bill upon which I agree.

But at the same time, in the manager's amendment that will be coming up, there were changes made in literally the last minute that came very close to violating the good-faith negotiations that were ongoing on this legislation. I will speak to that at the proper time.

But I will say at this point that this legislation needs to be defeated, the substitute that will be offered needs to be supported, and we need to look very seriously at how we can enforce better the endangered species laws on the books today rather than the overhaul that exists in the pending legislation, and I urge defeat of the legislation.

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

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I thank the chairman for yielding me this time to speak on an issue that is very important to me and my constituents.

The Endangered Species Act plays a prominent role in my State of Missouri with over 25 endangered and threatened species located within the borders and nine in my district.

Mr. Chairman, the ESA is broken and needs to be fixed. Over the last 30 years, less than 1 percent of all listed species have been removed, and most of them have been removed because of poor data. I thought the intent of the ESA was to recover species and not leave them on the list indefinitely. Also, landowners seem to be getting cheated when species are identified on their property resulting in lower property values, less production and limited use. These unintended adverse impacts have resulted in a law that is

hurting landowners while not recovering any species.

This is why I introduced H.R. 3300, the Endangered Species Recovery Act. I want to thank the chairman and staff for working with me to develop and incorporate this bill into the overall ESA bill. The language in section 10 of the bill creates ''species recovery agreements.'' Basically, it is an all-inclusive incentive program that will compensate landowners for their conservation efforts. It is my hope that this provision will foster a better working relationship with landowners and the Federal Government resulting in recovery of more species. My underlying goal is to protect landowners while keeping intact the spirit of the ESA.

As part of the farming community, I have heard stories of farmers afraid to report an endangered species on their land because of the implication it would have on their property and their farming operation. ''Shoot, shovel, and shut up'' was often the case when a species was identified on their property. My point is that the ESA was more of a burden on landowners, and without the cooperation of landowners, species recovery, I do not think, will ever be successful.

Another reason why I chose to get involved in this debate is because of the implication this Act has on the management of the Missouri River. The Missouri River is a vital waterway for Midwest farmers, providing cheaper and more efficient transportation for their grain. The Flood Control Act of 1944 authorized the Army Corps of Engineers to maintain flood control and navigation along the river. Then came the Endangered Species Act and this all changed. The ESA seems to supersede the Flood Control Act, and now transportation along the river is unreliable. Ultimately, I would like to see the provisions in this bill fix the situation so navigation becomes more reliable.

Again, I commend the chairman on his efforts and look forward to working with him on this bill and getting it passed this afternoon.

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

I want to conclude by saying I thank the gentleman from West Virginia (Mr. RAHALL) for his offering of working on this piece of legislation, and we do so in the spirit of cooperation.

I also have to say, though, that in this Chamber where we have seen lofty rhetoric for a number of years, I personally having witnessed it for 26 since I was first an intern here, I have frankly never seen the rhetoric not coincide with the reality more than in this case oftentimes.

This bill does not eviscerate the Endangered Species Act. This bill does several positive things. It establishes recovery plans based on biology. It establishes recovery habitat based on those recovery plans. It encourages landowners to cooperate with biologists in the Fish and Wildlife Service. It lets landowners get answers to their biological questions, and it compensates landowners whose land is confiscated under the original Endangered Species Act.

I ask Members for their ''aye'' vote.

Mr. POMBO. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, we heard about Theodore Roosevelt. Indeed, 100 years ago this year, Theodore Roosevelt created the Great Forest Reserves. He also created the Klamath Wildlife Refuge. He created the forest reserves for both the future home building needs of the country and for water, if we read his statements, and, of course, for nature as well.

□ 1445

He created the wildlife refuge in the Klamath Basin to ensure that we would have healthy wildlife populations for generations to come; and, indeed, the wildlife refuge is home to the greatest concentration of bald eagles in the United States, in the lower 48.

Ninety-six years after he created that refuge, this Federal Government made a decision to shut the water off to 1,200 farm families in that basin based on the Endangered Species Act and interpreted by the government scientists without peer review, without peer review. When the National Academy of Sciences reviewed the decisions, they said the agency made mistakes in the outcome under the Endangered Species Act; and further they went on to say that those decisions put in jeopardy potentially those very species, the sucker fish in the Upper Klamath Lake and the Coho Salmon in the Klamath River. It potentially could have damaged both of those.

This act changes that. This act changes that, because we put into law for the first time really clear criteria and guidance about science. And unlike the substitute that will be offered soon, we allow a full public process, a 1-year timeline for the Secretary to further define the criteria of the science. We do not define it in the statute; we give guidance and then there will be a full public process. We require empirical data and peer review and the Secretary to have that opportunity, and peer review is certainly important. The other alternative does not do that. It sets it in standard. It is politicians writing it. Science is critical.

Let me talk about the private property rights. I believe in them. When the government says it is going to build a highway across your property, the Constitution says the government has to pay you for it. The ESA is the environmental highway across your property.

But it does not open the door as a blank check to developers to go out and pick the most sensitive wildlife habitat area in the country and say, I am going to build a $50 million hotel and casino here. Not at all.

Let us go to the law that we are proposing. Page 15, open your manuals, sub (C): ''The foregone use would be lawful under State and local law and the property owner has demonstrated the property owner has the means to undertake the proposed use.''

It eliminates the speculative things that people were concerned about. We heard that. This is an improvement. This clearly says that.

And there is no double-dipping. This section says you cannot come back and get a second bite at the same apple, so you have to follow State and local zoning ordinances and laws, you have to prove you are financially capable of undertaking the activity, and the government has to give you an answer when you propose to do something on your private, private, property here.

That is one of the great things about this country. We can talk about the bald eagle, and I am a big fan of them, but one of the underpinnings of our great democracy is our private property rights. In the case of the Klamath Basin, in many respects they were taken away when their water was cut off and 1,200 farm families were left destitute.

I believe in recovery, I believe in species, and I think what we are changing in this bill will build new partnerships that will bring landowners and the government together like never before, that respects the rights of private owners of property, and will actually result in increased recovery of species and habitat.

Mr. Chairman, I urge approval of the underlying bill.

Mr. ADERHOLT. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, the Endangered Species Act is a well-intentioned law that has failed in its implementation. Originally billed as a way to recover and rehabilitate endangered species, it has failed at that goal.

As it has been pointed out, less than 1 percent of species listed have recovered in the entire history of the act. Almost 3 times that many still listed are believed to already be extinct. Many species that were listed in error, yet because of flaws in the act, they are still listed. This bill today will greatly improve the recovery process so that species may be restored and removed from the list.

Mr. Chairman, one of those species is the Alabama sturgeon. It was listed years ago even though it was never proven to be genetically distinct from any other sturgeon.

It's simply a regular sturgeon living in Alabama. The economic cost of its listing has been estimated at $1.5 billion.

Mr. Chairman, I and the rest of the Alabama delegation worked directly with the gentleman from California to ensure that the bill is helpful to landowners in Alabama and Southeast. The Endangered Species Act today creates an adversarial relationship between landowners and the government.

Landowners have little incentive to conserve species on their property. However, this bill will create cooperative conservation agreements between landowners and the government. It will also provide long overdue compensation to landowners whose property has been "taken" by the Endangered Species Act.

I encourage all of my colleagues to support this bill.

Mr. MENENDEZ. Mr. Chairman, I rise today in strong opposition to this bill, H.R. 3824, which would substantially weaken the essential protections we have in place for endangered plants and animals. Since being signed into law over 30 years ago, the Endangered Species Act has protected over twelve hundred species from extinction. Only nine species listed under the act have gone extinct, and five of them were later determined to be extinct by the time they were listed. Meanwhile, thanks largely to the act's protections, we have fully recovered such species as the American alligator, grey whale, and peregrine falcon, and stabilized the populations of bald eagles, sea turtles, manatees, and hundreds more. And some species, such as the California condor and red wolf, would probably be extinct without the protections of the act.

From looking at the record of the Endangered Species Act, I would say that it has been a success. A study by the Congressional Research Service has shown that 41 percent of listed species have improved their status after being listed. The act certainly has not brought every endangered or threatened species to full recovery, but many of these have only been listed a few years. Rebuilding a species takes time. The U.S. Fish and Wildlife Service reported that only 4 percent of species listed for less than 5 years have recovered by any appreciable amount. But that number jumps to 36 percent for species listed for over 10 years. The fact that so many species have yet to be fully recovered is a call for more endangered species protections, not less.

And yet less protection is exactly what this bill is giving us. It eliminates the designation of critical habitat, which is one of the most important provisions in the Endangered Species Act. A recent study showed that species with defined critical habitat are far more likely to be recovering than species without such habitat. The bill includes a number of other unfortunate provisions, but perhaps none are more unfortunate, or more mind-boggling, than the proposal to pay off developers for what they should be doing anyway—obeying the law. This bill says that if a developer wants to build something but can't do it because of the Endangered Species Act, the government must pay them for the loss of the income they would have received from the development, even when the development is economically unfeasible.

Think about this for a second. First of all, we are saying that the government will pay you for obeying the law. A power plant that doesn't install pollution control devices will be more profitable than one that does, but we don't pay off the cleaner power plant for obeying the Clean Air Act. And we certainly don't pay someone for not robbing a bank, even though it would be very profitable for them to do so. This has nothing to do with the government providing compensation for taking private land. This is about developers being encouraged to come up with incredible schemes, and then getting paid by the American taxpayer to not build them, because doing so would drive an endangered species to extinction. This is insane, and would ensure that all the money in the endangered species program would go to developer payoffs, and not species protection.

There are a number of reasons why we need to focus our resources on protecting endangered species. Wildlife means millions of dollars to local economies, both through tourism and outdoor recreation. Just in two counties in southern New Jersey alone, red knot watchers spend over $4 million a year. Nationally, sportsmen and wildlife enthusiasts spend an estimated $100 billion each year on outdoor activities. But preserving species is about more than just economic value and being good stewards of the Earth. It is also about our health. A recent study by the National Cancer Institute showed that in the past 20 years, 78 percent of new antibiotics and 74 percent of new anticancer drugs were linked to natural products. Every species that goes extinct decreases our chances of finding the next miracle drug to fight infection, Alzheimer's, cancer, or AIDS.

The substitute amendment being offered by Mr. MILLER, Mr. BOEHLERT, and others is a considerable improvement on the underlying bill. It eliminates payoffs to developers, puts more teeth into recovery plans, and ensures that scientific standards don't get watered down. It is not an ideal substitute, but it will certainly do much more for truly protecting endangered species than H.R. 3824.

The Endangered Species Act is something we should be proud of, and something we should look to tweak to improve species recovery, not gut to give egregious and unwarranted payouts to developers. I urge my colleagues to join me in defeating H.R. 3824.

Mr. ENGEL. Mr. Chairman, there is an old saying "The South will rise again!" Well, the bill before us today is proof the "Era of Big Government has come again!" Let no mistake be made, those who support this bill cannot claim to be dedicated to fiscal responsibility and smaller government. This bill blows another hole in the Federal deficit.

I oppose this sham overhaul of the Endangered Species Act. Enacted in 1973, this landmark legislation has been hugely successful in saving many species from becoming extinct and has been an important conservation tool. The Endangered Species Act must be strengthened not decimated.

Of the more than 1,800 plants and animals protected by the act, only 9 percent have been declared extinct. Those species that have survived continue to grow and flourish. Newly named, the Threatened and Endangered Species Recovery Act ignores this success and carves out loopholes in the Act that will allow developers and others to avoid the law's protections. This legislation eliminates extremely critical habitat designations, giving many species no opportunity to survive.

It is a travesty that the leadership in this House, is yet again giving business the upper hand over sensible and effective environmental protection law. Private landowners will now have no incentive to protect their land. In fact, the Federal Government will now pay landowners for merely abiding the law!

Mr. Chairman, this Act does not "modernize" or "reform" the Endangered Species Act, it guts it and should be called the landowner and developer welfare act.

Mr. THOMPSON of California. Mr. Chairman, I agree with Chairman POMBO that the Endangered Species Act is in need of reform, and the way in which critical habitat is currently administered is one of the glaring problems with the act today.

For instance, in my district the Fish and Wildlife Service recently issued a critical habitat map for an endangered species which encompasses 74,000 acres including downtowns, streets and existing apartment complexes.

However, there are aspects with this bill in its current form that concern me and unfortunately, I cannot support it at this time.

I am very concerned with section 3 of H.R. 3824 which transfers all the responsibilities for implementation of the Endangered Species Act to the Secretary of Interior. I question the agency's existing level of expertise on fishery issues and its fiscal and technical capacity to take on such a task.

I raise this as a concern also because their past actions have proven to me that they don't have the capability or understanding needed to protect listed salmon.

In 2002, the Department did not listen to warnings from NOAA Fisheries—the agency that currently manages and protects threatened and endangered salmon—and State biologists who warned months ahead of time that due to a drought and the existing management practices by the Department of Interior, there could be a fish kill on the Klamath River. Unfortunately, the Department did not listen to these warnings, and that September some 80,000 adult fish died. This fish kill had, and continues to have a catastrophic impact on my district and the fishing related communities from the Washington/Oregon border—to south of San Francisco. The immediate result was obvious, but commercial fishing season was cut in half this year due to poor salmon returns caused by the fish kill, and fishery biologists expect the fishing season throughout this region to be cut like this for years to come.

Finally, I am concerned with how quickly this bill has moved through the House. I believe the process to make these important decisions regarding the existence of a species and our livelihood needs to be open, transparent and inclusive. In 1994, Representative CARDOZA and I helped pass revisions to the California Environmental Quality Act. As you can imagine, Mr. Chairman, this process was long and difficult. However, we formed a working group which included mainstream environmental, sportsmen, agriculture and industry organizations. In the end, all parties supported this bill. Unfortunately, the reforms we are voting on today do not have that same level of endorsement. However, I strongly believe that if the process was more transparent and inclusive, we could find a balance that would be more agreeable to all parties.

In closing, I believe that the Endangered Species Act must be reformed and hope to work with you in reforming it to make it work better. However, for the reasons stated, I unfortunately cannot support this bill in its current form.

Mr. EVERETT. Mr. Chairman, I rise today as a cosponsor of H.R. 3824, the Threatened and Endangered Species Recovery Act. Alabama ranks in the top five States in the number of listed species, and passage of this legislation will move us closer to achieving the goal of protecting and recovering the Nation's threatened and endangered species by adding a layer of common sense.

The Endangered Species Act, ESA, although enacted with honorable intentions, has strayed from its original purpose of conserving plants and wildlife. Currently, there are nearly 1,300 domestic species listed as threatened or

endangered. Since the enactment of the ESA, only 10 species, less than 1 percent of those listed as endangered, have been recovered. This is just one of the numerous reasons why this legislation needs updating.

Most importantly, the manager's amendment includes a significant provision that requires the Fish and Wildlife Service to consider the economic and national security impact of listing a species. This impact analysis is an important tool that provides vital information to Congress, federal agencies, states, and landowners about the potential effects of the ESA within those geographic areas deemed to be essential for the species' survival and recovery. Private property owners ought to have this information at the time a species is proposed for listing. Such timely notice serves to let everyone know whether they should be interested in the listing process and, ideally, brings them to the table to participate. I would like to thank Chairman POMBO for all his hard work on crafting this important piece of legislation, and I am very appreciative of his efforts to include this provision in his manager's amendment.

By enhancing the rights of private property owners and improving the impact analysis of the listing process, the ESA will actually work to protect endangered species. I urge all of my colleagues to support this measure.

Mr. UDALL of Colorado. Mr. Chairman, I cannot vote for this bill as it stands.

I support much of the thrust of the original bill. I support putting more emphasis on recovery plans and on steps to provide incentives for landowners and other private parties to help with recovering species. And the Resources Committee did make improvements in the original bill.

Unfortunately, though, other needed amendments were not approved—and as a result I concluded that the bill's defects were still so numerous and so serious that it should not be approved without further changes.

That was why I supported the bipartisan substitute. Had it been adopted, we would have kept the best parts of the bill as reported—including the authorization for reimbursement for livestock losses that I supported in the Resources Committee—and made the further improvements that were needed for it to deserve approval by the full House of Representatives.

Unfortunately, that did not occur, so we are left with a bill that does not include those improvements.

Proponents of the reported bill say the Endangered Species Act has led to too many lawsuits. But according to the Bush Administration's analysis of the bill as reported, "the new definition of jeopardy in the bill, as well as various statutory deadlines, may generate new litigation and further divert agency resources from conservation purposes." The substitute did not have the same problems.

Similarly, the substitute did not include the reported bill's vague provisions that would set up a new entitlement program—a program without clear boundaries that would increase federal spending to an extent that cannot be easily calculated.

Those provisions worry the Bush Administration, which has told us that they "provide little discretion to Federal agencies and could result in a significant budgetary impact."

And after reviewing the bill as reported, the nonpartisan budget watchdog group, Taxpayers for Common Sense, concluded that "This legislation is rife with loopholes and vague wording that have the potential to cost taxpayers billions of dollars, and must be revised."

I supported the bipartisan substitute because it would have made the revisions necessary to close those loopholes.

Nonetheless, while I cannot support the bill today, I am hopeful that it will be further improved as the legislative process continues and that the result will be legislation to revise the Endangered Species Act that I can support and that will deserve the support of every Member of Congress.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to request that my name be removed as a cosponsor of H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005 (TESRA).

Species conservation is an essential tenet in the effort to promote and maintain a healthy environment. Although I agree with Congressman POMBO's initiative in principle, after reviewing the legislation closely I came to the conclusion that this bill would jeopardize critical habitat protections that endangered plants and animals need to survive and recover their populations, and it would do little to protect the planet's most threatened wildlife.

As a Senior Member of the House Science Committee, I also have serious reservations that in its current form, H.R. 3824 attempts to substitute politics for sound science in decisions involving endangered species, letting expediency and profit motives influence what should be scientific decisions.

Mr. HEFLEY. Mr. Chairman, I rise in support of the legislation offered by the gentleman from California (Mr. POMBO) and would like to give you an example of why this bill is needed.

Seven years ago, the Fish and Wildlife Service contacted my office to state they were going to list the Preble's meadow jumping mouse as a threatened species.

It wasn't even a surprise. State and local authorities had known the mouse might be listed for years. And, at first, it didn't even seem like it would be that much of a problem. The mouse was a nocturnal animal that dwelt within a hundred feet of either side of streambeds.

The Front Range of the Rockies could also claim at least three government reservations—the U.S. Air Force Academy, Rocky Flats and Warren AFB in Wyoming—which offered the mouse almost untrammeled range in which to roam.

But over the course of the next seven years, the lines moved. Now the mouse's range extended beyond the stream beds, sometimes by miles. Habitat had to be protected, not only where the mouse had been found but also where it might be found if indeed a three-inch-long rodent could travel several miles to get there.

Over the past seven years, the State of Colorado spent approximately $8 million to preserve the mouse. Counties up and down the Front Range spent even more money to acquire open space and to develop habitat conservation plans, few of which, to my knowledge, were ever completed or even begun. This is not even counting the impact to private property owners, not knowing whether they could use or develop their property.

And after all this, all the money spent, all the needless planning and contention, it turned out the Fish and Wildlife Service was wrong. The Preble's meadow jumping mouse was not threatened. It wasn't even a separate subspecies. A scientist at the Denver Museum of Nature and Science stated this and the scientist whose 1954 work led to the original listing, agreed with the new data.

And so the delisting process started. Hopefully, we'll see it completed sometime in the near future though there is some evidence that Fish and Wildlife is taking its time in doing so. But meanwhile, the states of Wyoming and Colorado and its Front Range counties and cities and residents are out at least $8 million and probably more for no good reason.

After all this time and expense, nothing has been produced. That is why this bill is needed. If we are going to undertake these massive land-planning schemes, then the Feds ought to be sure of their facts. If they are going to mandate conservation planning and land set-asides, then maybe they ought to send the money along to do that. The states, counties and cities have other things they could spend their tax dollars on.

The ESA, as it currently stands, does nothing but keep attorneys and interest groups busy and needs reformed. So I say, let's try this approach. I urge your support of H.R. 3824.

Mr. ETHERIDGE. Mr. Chairman, today I rise in opposition to H.R 3824, the Threatened and Endangered Species Recovery Act. Under the Constitution, we are charged with securing this country's blessings not only for ourselves, but for our posterity. This bill turns its back on our posterity.

The Endangered Species Act has been a model for the protection and preservation of endangered species since 1973. When this legislation was first passed, many species in this country were on the brink of extinction, and many more were in severe decline. ESA is essential to safeguard our natural resources and ensure the biodiversity that is critical to a healthy environment for all species, including human beings. ESA is a great American success story that should only be altered with the greatest of care.

In the thirty years since the passage of the Endangered Species Act, we have seen an amazing turnaround in both the population numbers of species that were in decline, as well as in the significant environmental improvements that have fostered their recovery.

I acknowledge the concerns of landowners and farmers about the current law, and I agree that the current law needs to be reformed. This is why I support the Miller-Boehlert substitute bill. The substitute helps small landowners by dedicating funding for technical assistance for private property owners, and it provides conservation grants for landowners who help conserve endangered species on their property. Finally, it provides assurances that private citizens will get timely answers from the Fish & Wildlife Service regarding the status of endangered species requirements on their land. The Miller-Boehlert Substitute provides positive changes to the current ESA without reversing the progress that has been made over the past thirty years. The bipartisan substitute is not perfect legislation, but it is far superior to H.R. 3824.

H.R. 3824 was introduced just last week and was marked up without any public hearings, yet this legislation would most certainly rank as the most sweeping and significant

change of environmental law in the past three decades.

I have grave concerns about provisions in the bill that give political appointees the power to remove species from the endangered list based on political decisions rather than on sound science. Habitat degradation is the leading cause of species decline, and this bill proposes to eliminate critical habitat designations. I do not understand how eliminating protected areas can result in greater protection of endangered species.

The Endangered Species Act needs an update, but we must not reverse course on significant progress and results for endangered species. We have a solemn obligation to maintain responsible stewardship of America's bounty, and this legislation would abandon that responsibility. I urge my colleagues to vote against H.R. 3824, and to vote in favor of the balanced, bipartisan substitute legislation for ESA reform.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 3824, the Threatened and Endangered Species Recovery Act.

The Republican majority has already dismantled nearly every Government program for people, and now it appears they're moving on to other species. They constantly preach that God's creations are precious, yet once again they are showing their hypocrisy that they would be so careless with the lives of God's creatures. Perhaps if some of these endangered species were in a persistent vegetative state, Republicans would come rushing to their aid. Perhaps if scientists would concede these same plants and animals were fashioned during the week of God's creating the world, the right wing would be willing to help.

The Republicans want us to believe that this bill represents a fair and balanced way to protect endangered species without infringing on property rights. Not true. This bill grants unprecedented and immeasurable subsidies to land owners rather than ensuring their fair costs are covered; so much so in fact, that the nonpartisan Congressional Budget Office cannot estimate the potential impact to the Federal budget.

This bill is nothing more than an assault on our environment. I urge my colleagues to join me, and every environmental organization on God's green Earth, in opposing this bill.

Mr. PAYNE. Mr. Chairman, I rise today to oppose the unwise, unsound, and unsubstantiated policy changes contained in H.R. 3824—misleadingly named the Threatened and Endangered Species Recovery Act of 2005.

I am deeply concerned about the elimination of all critical habitat provisions of the Endangered Species Act without any mechanism to protect habitat needed for species recovery. I am troubled by the removal of protections for ''threatened'' species and the weakening of endangered species recovery teams.

Moreover, I believe that sound science produces accurate data from which sound policy decisions can be made. When we choose not to respect the role of science in our regulatory decisions, we are cheating ourselves out of valuable information and we run the risk of making poor or erroneous judgments about crucial conservation decisions. By allowing a political appointee to develop a definition of ''best available science'' and increasing barriers to access to scientific data, I believe that this bill needlessly politicizes scientific decision-making, and I fear that we are setting ourselves up for many unsound policy choices as a result.

I am not only motivated by the harms this bill will have on the plant and animal species, but by the threat to the health and well-being of the human species as well. The pesticide provisions of this bill seem to indicate a willingness to endanger the lives of migrant and seasonal farmworkers, their families, and their children. This weakening of pesticide standards poses a serious threat to public health, and I cannot support any bill that does not take seriously the health and safety of the American public.

We also do a disservice to the American people when we are not wise stewards of their taxpayer dollars. Using those dollars to pay developers for complying with the ESA's regulations is a clear violation of the fiduciary duty with which we are all endowed.

Mr. Chairman, I would like to again voice my opposition to H.R. 3824, and I encourage all of my colleagues who care about conservation to do so as well.

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to this bill. The legislation before us today turns back the clock on 35 years of progress in responsible environmental stewardship by gutting the current Endangered Species Act and replacing it with little to preserve endangered wildlife for future generations.

Over 99 percent of the species that have been listed as threatened or endangered under current law have been saved from extinction. But had this bill been the law of the land over the last 30 years, the Fish and Wildlife Service points out that the Bald Eagle—an icon of American freedom—would exist only in our memones.

Any law that is 35 years old should be looked at with a fresh eye, and so I am supportive of attempts to update and improve the Endangered Species Act. Indeed, in my home state of Connecticut, we are concerned that oysters, a key aquaculture product, may be unnecessarily characterized as an endangered species. And so we should be willing to consider smart changes to the law.

But that is not the intent of the underlying bill. Rather, the purpose of this legislation is to remove obstacles inconvenient to special interests with whom the Republican leadership is in partnership. For this majority and their supporters—developers, the oil and gas industry—laws protecting the air and water are not a priority—they are a nuisance. As such, this legislation would eliminate conservation measures on tens of millions of acres of land around the country, the ''critical habitat'' of endangered species, and prevent such conservation activities in the future.

It also reveals the majority's clear disdain for sound science. Current law requires a review of all scientific and commercial data by a panel of outside scientists. This, Mr. Chairman, ensures that the peer-review process—a central tenet of sound scientific research—guides the process, not ideology and politics. Instead, this bill would allow the Secretary of the Interior to make a determination about whether a species is endangered based on ''all available information''—that is to say, information that opens the door for phony science supporting special interests.

Finally, Mr. Chairman, the bill fails the fiscal responsibility test. By allowing for payments to land owners who do not develop land that is home to protected species, it actually creates a system where people and businesses—mostly big oil and gas companies—are paid for following the law. If only we were all so fortunate.

This bill is nothing more than yet another entitlement program for special interests—as always, with this majority, at the expense of the taxpayer. Little wonder that even conservative groups like Taxpayers For Common Sense have expressed their grave concerns regarding this legislation.

Mr. Chairman, the Endangered Species Act is a statement of our priorities as Americans. It is an affirmation of our belief that, just as we desire better economic opportunity for our children and future generations, so too do we hope to leave them a healthier environment. Unfortunately, the underlying bill will accomplish neither. This is simply the continuation of a decade-long assault by the majority on our clean air, our clean water and our environment. And it should be rejected.

Mr. BISHOP of New York. Mr. Chairman, I rise in support of this bipartisan substitute and in unwavering opposition to the underlying Threatened and Endangered Species Act of 2005, which does not defend endangered species as it purports, but rather protects the special interests of private industry and landowners.

I am concerned about the environmental and fiscal health of our great nation and the path chosen by many of America's leaders whose policies are painfully lacking in promoting conservation. Although Americans may debate the need to update the Endangered Species Act of 1973, TESRA is absolutely not the answer. In fact, TESRA is a step back, furthering the degradation of species and compounding man's conflict with the environment.

What exactly is the urgency by which the majority has brought this issue at this time? America is still in mourning as we enter the early stages of rebuilding the Gulf Coast and fighting a war in Iraq and Afghanistan costing our nation hundreds upon hundreds of billions of taxpayer dollars.

Particularly egregious is that TESRA will cost nearly $3 billion in new spending in just the next 4 years, which will be used not to protect threatened and endangered species, but rather the interests of private landowners.

Taxpayers should be outraged by the fiscal irresponsibility of this Congress. If we have $3 billion to give away, let's give it to families in need by renewing TANF or to expand rather than cut Pell grants so that students who wish to attend college can meet the financial demands.

In my district, hardworking families are struggling to absorb the high costs of fuel into their budget while putting food on their tables and sending their children to college.

Mr. Chairman, the narrow-vision and short-term policy decisions made by this Congress do not reflect middle-class values. At what point will a clean environment and healthy future for our children and grandchildren become a priority?

The American public deserves a future that includes true protection of our endangered species and the development of fuel sources that are clean, renewable and promote conservation and energy independence.

Mr. Chairman, I urge my colleagues to reject the underlying legislation to reform the ESA and support the bipartisan substitute.

Mr. HOLT. Mr. Chairman, I rise today to express my strong opposition to the Threatened and Endangered Species Recovery Act of 2005. Despite the deceptive title of this bill, it is a measure designed to weaken the protections secured under the landmark Endangered Species Act (ESA).

While scientists are uncertain about the exact rate of extinction, they estimate that it is probably thousands of times greater than the rate prior to human civilization. In 1973 Congress enacted the ESA to address this problem of species extinction. The ESA is a comprehensive legal measure that is used to identify and protect species that are determined to be the most at risk. Under this law, once a species is designated as either ''endangered'' or ''threatened,'' powerful legal tools are available to aid in the recovery of the species and to protect its habitat. Without these strong federal protections hundreds of species including the bald eagle, grizzly bear, Florida panther, and the manatee would all be extinct.

The bill we are debating today is flawed in many ways, but I am particularly concerned with its removal of habitat protection from the Endangered Species Act. Habitat destruction, degradation, and fragmentation is the most significant cause of species extinction. This legislation blatantly ignores the integral role habitat plays in the survival of a species by eliminating the designation of ''critical habitat.'' Without this special designation, our government's ability to recover species will be severely undermined.

It is disconcerting that some of my colleagues do not value saving our unique natural treasures, but it is appalling that they refuse to acknowledge that the Endangered Species Act is about much more than saving a unique species. It is undeniable that the world in which we live is an intricately connected environment that is suffering from human abuse and neglect. The loss of a species interrupts the life cycle of the ecosystem it was part of and alters our environment in ways far beyond this isolated event. The Endangered Species Act is a vital tool in preventing and reversing these life cycle disruptions before they ripple out and cause further damage to our natural communities.

We all agree that this law should be revisited and improvements to the law should be implemented. I understand the concerns of my colleagues that this law has been abused at the detriment of their constituents' rights. However, I believe there are ways to balance the needs of development and property rights with the need to protect the health of the environment which we all share. Instead of working towards a true compromise, we are considering legislation that is based on the fallacious premise that environmental protection requires a trade-off with private interests. It takes a very short-sighted, short term view of our world and our economy. It ignores the long term damage catering to these private interests will have on our future.

The Threatened and Endangered Species Recovery Act of 2005 severely hampers the effectiveness of the Endangered Species Act. I urge my colleagues to oppose this legislation that will result in far reaching and detrimental impacts.

Mr. HONDA. Mr. Speaker, the Endangered Species Act is a safety net for wildlife, plants and fish that are on the brink of extinction. Over its 32-year history, the Endangered Species Act has been 99 percent successful in saving species from extinction, with only 7 out of over 1,200 species having gone extinct after being listed under the Act. The number of species that have fully recovered is not as high, however, and at this point there is a recognition that the current critical habitat arrangement doesn't work, for a whole host of reasons.

I believe that any legislation amending the Endangered Species Act should include a number of critical principles. It should not weaken existing law, nor should changes be adopted that would alter the original intent of the Endangered Species Act. The Act was written to protect all plants and animals in the United States from extinction and to restore them to stable populations. Limiting protections for imperiled species now would serve only to make protection and recovery much more difficult and expensive in the future.

I also believe that habitat protections for threatened and endangered species should not be weakened. The loss of habitat is widely considered by scientists to be the primary cause of species extinction and endangerment. Preservation of habitat is an essential element to any and all efforts to protect and recover endangered species. Additionally, any amendments should maintain the mandate for the Endangered Species Act to work towards recovery. The Endangered Species Act requires not only that we protect species from extinction but also that we recover species to the point where protection is no longer needed. Merely maintaining the survival of a species contradicts the spirit and letter of the law, which is why we need to hold federal actions to the standard of recovering species.

Citizen input and oversight are vital to good Endangered Species Act decisions and management, so any changes to the Act should avoid unnecessary hurdles to public participation. It is also important to uphold the scientific process behind Endangered Species Act decisions. The scientific review of matters relating to the Endangered Species Act is already sufficiently rigorous. Adding another layer of bureaucracy would serve only to slow the process, to the detriment of both the species in question and affected citizens. Finally, I believe that while vigilant Congressional oversight is critical to the success of any law, putting an arbitrary expiration date on the Endangered Species Act would place the protection of species at the mercy of the legislative calendar.

Mr. Chairman, white I realize that the Endangered Species Act is not perfect, I believe that the version of the bill that is before us today will eliminate critical habitat without including other mechanisms to protect species' homes. Unless substantial amendments to address this and other shortcomings are passed on the floor today, I will not support H.R. 3824. I applaud the efforts of a bipartisan group of my colleagues, including Mr. MILLER, Mr. BOEHLERT, and the original author of ESA, Representative DINGELL, who have worked hard to develop an alternative bill that I am happy to support.

Mr. SMITH of Texas. Mr. Chairman, I rise in support of H.R. 3824. Reform of the Endangered Species Act is much needed. The law has adversely affected thousands of farmers, ranchers and homeowners whose private property has been taken without compensation.

Over 90 percent of endangered plant and animal species are found on private property. There should be a balance between the rights of property owners and conservation.

H.R. 3824 will allow the Secretary of Interior to compensate private property owners for the fair market value of the loss of use of their property when the Secretary concludes that the use of the property would be a taking. The compensation will be made available as aid and through a grant program. This is a fair and long-overdue process that will actually promote preservation and conservation of endangered species and at the same time protect private property rights.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in opposition to H.R. 3824. I strongly believe that this is a very sensitive issue and should be looked at very carefully. While it is important to protect and save the many precious animals of this earth, it is also important not to take the property of the many Americans who have worked hard to obtain their homes and land. This issue needs to be looked at from a bipartisan perspective and because of this I am in support of the substitute amendment offered by Mr. MILLER of California.

The Miller substitute is a responsible alternative to the Pombo bill. The amendment not only addresses the current problems in the Pombo bill, but also improves the current law. Congressmen MILLER and BOEHLERT have presented Congress with a creative, workable solution that promises better results for recovering endangered species and reducing burdens for landowners. Among other things, the substitute protects habitat for species recovery by maintaining habitat protections and puts the primary obligation for recovery on federal agencies by clearly defining ''jeopardy.'' It also makes clear that any federal agency action that impairs species recovery will jeopardize the continued existence of the species and, therefore, is prohibited.

Furthermore, the substitute guarantees that federal agencies consult with the Fish and Wildlife Service to ensure that their actions do not jeopardize threatened and endangered wildlife. Additionally, it ensures that all newly listed species have recovery plans within 3 years and species already on the list have recovery plans within 10 years. Recovery plans will identify all areas necessary for the conservation of listed species. Prior to the development of recovery plans, the Miller substitute encourages the development of guidance that identifies particular types of activities that could negatively impact recovery. One of the most important aspects of the Miller substitute is that it provides real landowner incentives for conservation through cost sharing and technical assistance. Finally, it enhances the role of the states in helping conserve endangered species through improved cooperative agreements and greater federal-state consultation. Because of these factors, I support the Miller substitute.

The CHAIRMAN. All time for general debate has expired.

In lieu of the amendment printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of the Resources Committee Print dated September 26, 2005. The amendment in the

nature of a substitute shall be considered read.

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

H.R. 3824

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Threatened and Endangered Species Recovery Act of 2005''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendment references.
Sec. 3. Definitions.
Sec. 4. Determinations of endangered species and threatened species.
Sec. 5. Repeal of critical habitat requirements.
Sec. 6. Petitions and procedures for determinations and revisions.
Sec. 7. Reviews of listings and determinations.
Sec. 8. Secretarial guidelines; State comments.
Sec. 9. Recovery plans and land acquisitions.
Sec. 10. Cooperation with States and Indian tribes.
Sec. 11. Interagency cooperation and consultation.
Sec. 12. Exceptions to prohibitions.
Sec. 13. Private property conservation.
Sec. 14. Public accessibility and accountability.
Sec. 15. Annual cost analyses.
Sec. 16. Reimbursement for depredation of livestock by reintroduced species.
Sec. 17. Authorization of appropriations.
Sec. 18. Miscellaneous technical corrections.
Sec. 19. Clerical amendment to table of contents.
Sec. 20. Certain actions deemed in compliance.

SEC. 2. AMENDMENT REFERENCES.

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 such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

''(2)(A) The term 'best available scientific data' means scientific data, regardless of source, that are available to the Secretary at the time of a decision or action for which such data are required by this Act and that the Secretary determines are the most accurate, reliable, and relevant for use in that decision or action.

''(B) Not later than one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall issue regulations that establish criteria that must be met to determine which data constitute the best available scientific data for purposes of subparagraph (A).

''(C) If the Secretary determines that data for a decision or action do not comply with the criteria established by the regulations issued under subparagraph (B), do not comply with guidance issued under section 515 of the Treasury and General Government Appropriations Act, 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary, do not consist of any empirical data, or are found in sources that have not been subject to peer review in a generally acceptable manner—

''(i) the Secretary shall undertake the necessary measures to assure compliance with such criteria or guidance; and

''(ii) the Secretary may—

''(I) secure such empirical data;

''(II) seek appropriate peer review; and

''(III) reconsider the decision or action based on any supplemental or different data provided or any peer review conducted pursuant to this subparagraph.''.

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

''(13) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.''.

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

''(12) The term 'jeopardize the continued existence' means, with respect to an agency action (as that term is defined in section 7(a)(2)), that the action reasonably would be expected to significantly impede, directly or indirectly, the conservation in the long-term of the species in the wild.''.

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking ''section 3(13)'' and inserting ''section 3(14)''.

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(3) and inserting the following:

''DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

''SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

''(A) The present or threatened destruction, modification, or curtailment of its habitat or range by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

''(B) Overutilization for commercial, recreational, scientific, or educational purposes.

''(C) Disease or predation.

''(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

''(E) Other natural or manmade factors affecting its continued existence.

''(2) The Secretary shall use the authority provided by paragraph (1) to determine any distinct population of any species of vertebrate fish or wildlife to be an endangered species or a threatened species only sparingly.''.

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking ''best scientific and commercial data available to him'' and inserting ''best available scientific data''; and

(2) by inserting ''Federal agency, any'' after ''being made by any''.

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

''(2)(A) The Secretary shall—

''(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

''(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should—

''(I) be removed from such list;

''(II) be changed in status from an endangered species to a threatened species; or

''(III) be changed in status from a threatened species to an endangered species.

''(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).''.

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 3 (16 U.S.C. 1532), as amended by section 3 of this Act, is further amended by striking paragraph (6) and by redesignating paragraphs (7) through (22) in order as paragraphs (6) through (21).

(2) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (2) of this subsection, by striking subparagraph (D).

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (2) of this subsection, by striking ''determination, designation, or revision referred to in subsection (a)(1) or (3)'' and inserting ''determination referred to in subsection (a)(1)''.

(5) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (2) of this subsection, by striking ''; and if such regulation'' and all that follows through the end of the sentence and inserting a period.

(6) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting ''and'' after ''if any''; and

(ii) by striking '', and specify any'' and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking '', designations,''.

(7) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking ''section 4(b)(7)'' and inserting ''section 4(b)(6)''.

(8) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking ''section 4(b)(3)(B)(iii)'' each place it appears and inserting ''section 4(b)(2)(B)(iii)''.

(9) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking ''or result in the destruction or adverse modification of any habitat of such species'' and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking ''or result'' and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking ''or its critical habitat''.

(10) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking ''that—'' and all that follows through ''(i) solely'' and inserting ''that solely''; and

(B) by striking ''; and'' and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) TREATMENT OF PETITIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(2) of this Act, by adding at the end of subparagraph (A) the following: ''The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition.''.

(b) IMPLEMENTING REGULATIONS.—

(1) PROPOSED REGULATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking '', and'' and inserting a semicolon;

(ii) in clause (ii) by striking ''to the State agency in'' and inserting ''to the Governor of, and the State agency in,'';

(iii) in clause (ii) by striking ''such agency'' and inserting ''such Governor or agency'';

(iv) in clause (ii) by inserting ''and'' after the semicolon at the end; and

(v) by adding at the end the following:

''(iii) maintain, and shall make available, a complete record of all information concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information.''; and

(B) by adding at the end the following:

''(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

''(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.''.

(2) FINAL REGULATIONS.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

''(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

''(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.'';

(B) in subparagraph (B)(i) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)'';

(C) in subparagraph (B)(ii) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)''; and

(D) by striking subparagraph (C).

(3) EMERGENCY DETERMINATIONS.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting ''with respect to a determination of a species to be an endangered species or a threatened species'' after ''any regulation''; and

(B) in subparagraph (B), by striking ''the State agency in'' and inserting ''the Governor of, and State agency in,''.

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

''(3) Each determination under paragraph (2)(B) shall consider one of the following:

''(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

''(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) and (B) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

''(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

''(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).''.

SEC. 8. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking ''AGENCY'' and inserting ''SECRETARIAL'';

(B) in the matter preceding paragraph (1), by striking ''the purposes of this section are achieved'' and inserting ''this section is implemented'';

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking ''and'' after the semicolon at the end, and by inserting after paragraph (3) the following:

''(4) the criteria for determining best available scientific data pursuant to section 3(2); and''; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking ''subsection (f) of this section'' and inserting ''section 5''; and

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting ''COMMENTS.—'' before the first sentence;

(B) by striking ''a State agency'' the first place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(C) by striking ''a State agency'' the second place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(D) by striking ''the State agency'' and inserting ''the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively''; and

(E) by striking ''agency's''.

SEC. 9. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking ''subsection (a) of this section'' and inserting ''subsection (k)''; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

''RECOVERY PLANS AND LAND ACQUISITION

''SEC. 5. (a) RECOVERY PLANS.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

''(b) DEVELOPMENT OF RECOVERY PLANS.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

''(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 2 years after the date the species is listed under section 4(c).

''(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

''(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

''(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a tentative schedule for such development or revision.

''(B) A species is described in this subparagraph if—

''(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

''(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

''(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and tentative schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

''(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

''(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

''(c) PLAN CONTENTS.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

''(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

''(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including

such intermediate measures as are warranted to effect progress toward achievement of the criteria.

''(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

''(iv) An identification of those specific areas that are of special value to the conservation of the species.

''(B) Those members of any recovery team appointed pursuant to subsection (d) with relevant scientific expertise, or the Secretary if no recovery team is appointed, shall, based solely on the best available scientific data, establish the objective, measurable criteria required under subparagraph (A)(i).

''(C)(i) If the recovery team, or the Secretary if no recovery team is appointed, determines in the recovery plan that insufficient best available scientific data exist to determine criteria or measures under subparagraph (A) that could achieve a determination to remove the species from the lists published under section 4(c), the recovery plan shall contain interim criteria and measures that are likely to improve the status of the species.

''(ii) If a recovery plan does not contain the criteria and measures provided for by clause (i) of subparagraph (A), the recovery team for the plan, or by the Secretary if no recovery team is appointed, shall review the plan at intervals of no greater than 5 years and determine if the plan can be revised to contain the criteria and measures required under subparagraph (A).

''(iii) If the recovery team or the Secretary, respectively, determines under clause (ii) that a recovery plan can be revised to add the criteria and measures provided for under subparagraph (A), the recovery team or the Secretary, as applicable, shall revise the recovery plan to add such criteria and measures within 2 years after the date of the determination.

''(D) In specifying measures in a recovery plan under subparagraph (A), a recovery team or the Secretary, as applicable, shall—

''(i) whenever possible include alternative measures; and

''(ii) in developing such alternative measures, the Secretary shall seek to identify, among such alternative measures of comparable expected efficacy, the alternative measures that are least costly.

''(E) Estimates of time and costs pursuant to subparagraph (A)(iii), and identification of the least costly alternatives pursuant to subparagraph (D)(ii), are not required to be based on the best available scientific data.

''(2) Any area that, immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005, is designated as critical habitat of an endangered species or threatened species shall be treated as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(3).

''(d) RECOVERY TEAMS.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams for development of recovery plans under this section.

''(2) Such regulations shall—

''(A) establish criteria and the process for selecting the members of recovery teams, and the process for preparing recovery plans, that ensure that each team—

''(i) is of a size and composition to enable timely completion of the recovery plan; and

''(ii) includes sufficient representation from constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan;

''(B) include provisions regarding operating procedures of and recordkeeping by recovery teams;

''(C) ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraphs (1)(A)(iii) and (1)(D) of subsection (c) are economically rigorous; and

''(D) provide guidelines for circumstances in which the Secretary may determine that appointment of a recovery team is not necessary or advisable to develop a recovery plan for a specific species, including procedures to solicit public comment on any such determination.

''(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

''(e) REPORTS TO CONGRESS.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

''(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

''(A) an assessment of any significant change in the well-being of each such species, including—

''(i) changes in population, range, or threats; and

''(ii) the basis for that assessment; and

''(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

''(f) PUBLIC NOTICE AND COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

''(g) STATE COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency.

''(h) CONSULTATION TO ENSURE CONSISTENCY WITH DEVELOPMENT PLAN.—(1) The Secretary shall, prior to final approval of a new or revised recovery plan, consult with any pertinent State, Indian tribe, or regional or local land use agency or its designee.

''(2) For purposes of this Act, the term 'Indian tribe' means—

''(A) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(B) with respect to Alaska, the Metlakatla Indian Community.

''(i) USE OF PLANS.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(2)(A)(i) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

''(ii) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

''(iii) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

''(B) Nothing in a recovery plan shall be construed to establish regulatory requirements.

''(j) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

''(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.''.

(b) RECOVERY PLANS FOR SPECIES OCCUPYING MORE THAN ONE STATE.—Section 6 (16 U.S.C. 1535) is amended by adding at the end the following:

''(j) RECOVERY PLANS FOR SPECIES OCCUPYING MORE THAN ONE STATE.—Any recovery plan under section 5 for an endangered species or a threatened species that occupies more than one State shall identify criteria and actions pursuant to subsection (c)(1) of section 5 for each State that are necessary so that the State may pursue a determination that the portion of the species found in that State may be removed from lists published under section 4(c).''.

(c) THREATENED AND ENDANGERED SPECIES INCENTIVES PROGRAM.—

(1) AGREEMENTS AUTHORIZED.—Section 5 (16 U.S.C. 1534) is further amended by adding at the end the following:

''(m) THREATENED AND ENDANGERED SPECIES INCENTIVES PROGRAM.—(1) The Secretary may enter into species recovery agreements pursuant to paragraph (2) and species conservation contract agreements pursuant to paragraph (3) with persons, other than agencies or departments of the Federal Government or State governments, under which the Secretary is obligated, subject to the availability of appropriations, to make annual payments or provide other compensation to the persons to implement the agreements.

''(2)(A) The Secretary and persons who own or control the use of private land may enter into species recovery agreements with a term of not less than 5 years that meet the criteria set forth in subparagraph (B) and are in accordance with the priority established in subparagraph (C).

''(B) A species recovery agreement entered into under this paragraph by the Secretary with a person—

''(i) shall require that the person shall carry out, on the land owned or controlled by the person, activities that—

''(I) protect and restore habitat for covered species that are species determined to be endangered species or threatened species pursuant to section 4(a)(1);

''(II) contribute to the conservation of one or more covered species; and

''(III) specify and implement a management plan for the covered species;

''(ii) shall specify such a management plan that includes—

''(I) identification of the covered species;

''(II) a description of the land to which the agreement applies; and

''(III) a description of, and a schedule to carry out, the activities under clause (i);

''(iii) shall provide sufficient documentation to establish ownership or control by the

person of the land to which the agreement applies;

''(iv) shall include the amounts of the annual payments or other compensation to be provided by the Secretary to the person under the agreement, and the terms under which such payments or compensation shall be provided; and

''(v) shall include—

''(I) the duties of the person;

''(II) the duties of the Secretary;

''(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated; and

''(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given.

''(C) In entering into species recovery agreements under this paragraph, the Secretary shall accord priority to agreements that apply to any areas that are identified in recovery plans pursuant to subsection (c)(1)(A)(iv).

''(3)(A) The Secretary and persons who own private land may enter into species conservation contract agreements with terms of 30 years, 20 years, or 10 years that meet the criteria set forth in subparagraph (B) and standards set forth in subparagraph (D) and are in accordance with the priorities established in subparagraph (C).

''(B) A species conservation contract agreement entered into under this paragraph by the Secretary with a person—

''(i) shall provide that the person shall, on the land owned by the person—

''(I) carry out conservation practices to meet one or more of the goals set forth in clauses (i) through (iii) of subparagraph (C) for one or more covered species, that are species that are determined to be endangered species or threatened species pursuant to section 4(a)(1), species determined to be candidate species pursuant to section 4(b)(3)(B)(iii), or species subject to comparable designations under State law; and

''(II) specify and implement a management plan for the covered species;

''(ii) shall specify such a management plan that includes—

''(I) identification of the covered species;

''(II) a description in detail of the conservation practices for the covered species that the person shall undertake;

''(III) a description of the land to which the agreement applies; and

''(IV) a schedule of approximate deadlines, whether one-time or periodic, for undertaking the conservation practices described pursuant to subclause (II);

''(V) a description of existing or future economic activities on the land to which the agreement applies that are compatible with the conservation practices described pursuant to subclause (II) and generally with conservation of the covered species;

''(iii) shall specify the term of the agreement; and

''(iv) shall include—

''(I) the duties of the person;

''(II) the duties of the Secretary;

''(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated;

''(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given; and

''(V) terms and conditions for early termination of the agreement by the person before the management plan is fully implemented or termination of the agreement by the Secretary in the case of a violation by the person that is not remedied under subclause (IV), including any requirement for the person to refund all or part of any payments received under subparagraph (E) and any interest thereon.

''(C) The Secretary shall establish priorities for the selection of species conservation contract agreements, or groups of such agreements for adjacent or proximate lands, to be entered into under this paragraph that address the following factors:

''(i) The potential of the land to which the agreement or agreements apply to contribute significantly to the conservation of an endangered species or threatened species or a species with a comparable designation under State law.

''(ii) The potential of such land to contribute significantly to the improvement of the status of a candidate species or a species with a comparable designation under State law.

''(iii) The amount of acreage of such land.

''(iv) The number of covered species in the agreement or agreements.

''(v) The degree of urgency for the covered species to implement the conservation practices in the management plan or plans under the agreement or agreements.

''(vi) Land in close proximity to military test and training ranges, installations, and associated airspace that is affected by a covered species.

''(D) The Secretary shall enter into a species conservation contract agreement submitted by a person, if the Secretary finds that the person owns such land or has sufficient control over the use of such land to ensure implementation of the management plan under the agreement.

''(E)(i) Upon entering into a species conservation contract agreement with the Secretary pursuant to this paragraph, a person shall receive the financial assistance provided for in this subparagraph.

''(ii) If the person is implementing fully the agreement, the person shall receive from the Secretary—

''(I) in the case of a 30-year agreement, an annual contract payment in an amount equal to 100 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement;

''(II) in the case of a 20-year agreement, an annual contract payment in an amount equal to 80 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement; and

''(III) in the case of a 10-year agreement, an annual contract payment in an amount equal to 60 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement.

''(iii)(I) If the person receiving contract payments pursuant to clause (ii) receives any other State or Federal funds to defray the cost of any conservation practice, the cost of such practice shall not be eligible for such contract payments.

''(II) Contributions of agencies or organizations to any conservation practice other than the funds described in subclause (I) shall not be considered as costs of the person for purposes of the contract payments pursuant to clause (iii).

''(4)(A) Upon request of a person seeking to enter into an agreement pursuant to this subsection, the Secretary may provide to such person technical assistance in the preparation, and management training for the implementation, of the management plan for the agreement.

''(B) Any State agency, local government, nonprofit organization, or federally recognized Indian tribe may provide assistance to a person in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species for purposes of the preparation or review and approval of management plans for species conservation contract agreements under paragraph (3)(D)(iii).

''(5) Upon any conveyance or other transfer of interest in land that is subject to an agreement under this subsection—

''(A) the agreement shall terminate if the agreement does not continue in effect under subparagraph (B);

''(B) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by no later than 30 days after the date of the conveyance or other transfer and the person is determined by the Secretary to qualify to enter into an agreement under this subsection; or

''(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this subsection.

''(6) An agreement under this subsection may be renewed with the mutual consent of the Secretary and the person who entered into the agreement or to whom the agreement has been transferred under paragraph (5).

''(7) The Secretary shall make annual payments under this subsection as soon as possible after December 31 of each calendar year.

''(8) An agreement under this subsection that applies to an endangered species or threatened species shall, for the purpose of section 10(a)(4), be deemed to be a permit to enhance the propagation or survival of such species under section 10(a)(1), and a person in full compliance with the agreement shall be afforded the protection of section 10(a)(4).

''(9) The Secretary, or any other Federal official, may not require a person to enter into an agreement under this subsection as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this Act.''.

(2) Subsection (e)(2) of section 7 (16 U.S.C. 1536) (as redesignated by section 11(d)(2) of this Act) is amended by inserting ''or in an agreement under section 5(m)'' after ''section''.

(d) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking ''section 4(g)'' and inserting ''section 5(j)''.

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking ''section 4(f)'' and inserting ''section 5''; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking ''section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))'' and inserting ''section 5 of the Endangered Species Act of 1973''.

SEC. 10. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

''(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section 4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section

4(a)(1) in that State. Upon completion of consultation on the agreement pursuant to subsection (e)(2), any incidental take statement issued on the agreement shall apply to any such species, and to the State and any landowners enrolled in any program under the agreement, without further consultation (except any additional consultation pursuant to subsection (e)(2)) if the species is subsequently determined to be an endangered species or a threatened species and the agreement remains an adequate and active program for the conservation of endangered species and threatened species.

''(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

''(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

''(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

''(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

''(B) For the purposes of this paragraph, the term 'Indian tribe' means—

''(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(ii) with respect to Alaska, the Metlakatla Indian Community.'';

(2) in subsection (d)(1)—

(A) by striking ''pursuant to subsection (c) of this section'';

(B) by striking ''or to assist'' and all that follows through ''section 5(j)'' and inserting ''pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)''; and

(C) in subparagraph (F), by striking ''monitoring the status of candidate species'' and inserting ''developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)''; and

(3) in subsection (e)—

(A) by inserting ''(1)'' before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking ''at no greater than annual intervals'' and inserting ''every 3 years''; and

(C) by adding at the end the following:

''(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions only before—

''(A) the Secretary enters into the agreement; and

''(B) the Secretary approves any renewal of, or amendment to, the agreement that—

''(i) addresses species that are determined to be endangered species or threatened species, are not addressed in the agreement, and may be affected by the agreement; or

''(ii) new information about any species addressed in the agreement that the Secretary determines—

''(I) constitutes the best available scientific data; and

''(II) indicates that the agreement may have adverse effects on the species that had not been considered previously when the agreement was entered into or during any revision thereof or amendment thereto.

''(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

''(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

''(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

''(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.''.

SEC. 11. INTERAGENCY COOPERATION AND CONSULTATION.

(a) CONSULTATION REQUIREMENT.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking ''endangered species'' and all that follows through the end of the sentence and inserting ''species determined to be endangered species and threatened species under section 4.'';

(2) in paragraph (2)—

(A) in the first sentence by striking ''action'' the first place it appears and all that follows through ''is not'' and inserting ''agency action authorized, funded, or carried out by such agency is not'';

(B) in the first sentence by striking '', unless'' and all that follows through the end of the sentence and inserting a period;

(C) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''; and

(D) by inserting ''(A)'' before the first sentence, and by adding at the end the following:

''(B) The Secretary may identify specific agency actions or categories of agency actions that may be determined to meet the standards of this paragraph by alternative procedures to the procedures set forth in this subsection and subsections (b) through (d), except that subsections (b)(4) and (e) may apply only to an action that the Secretary finds, or concurs, does meet such standards, and the Secretary shall suggest, or concur in any suggested, reasonable and prudent alternatives described in subsection (b)(3) for any action determined not to meet such standards. Any such agency action or category of agency actions shall be identified, and any such alternative procedures shall be established, by regulation promulgated prior or subsequent to the date of the enactment of this Act.'';

(3) in paragraph (4)—

(A) by striking ''listed under section 4'' and inserting ''an endangered species or a threatened species''; and

(B) by inserting '', under section 4'' after ''such species''; and

(4) by adding at the end the following:

''(5) Any Federal agency or the Secretary, in conducting any analysis pursuant to paragraph (2), shall consider only the effects of any agency action that are distinct from a baseline of all effects upon the relevant species that have occurred or are occurring prior to the action.''.

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting ''permit or license'' before ''applicant'';

(2) in paragraph (2) by inserting ''permit or license'' before ''applicant'';

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking ''Promptly after'' and inserting ''Before'';

(ii) by inserting ''permit or license'' before ''applicant''; and

(iii) by inserting ''proposed'' before ''written statement''; and

(B) by striking all after the first sentence and inserting the following: ''The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) by striking ''the Secretary shall provide'' and all that follows through ''with a written statement that—'' and inserting the following: ''the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

''(B) A statement described in this subparagraph—''; and

(5) by adding at the end the following:

''(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be roughly proportional to the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

''(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

''(i) must be capable of successful implementation; and

''(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.''.

(c) BIOLOGICAL ASSESSMENTS.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) by striking ''(1)'';

(2) by striking paragraph (2);

(3) in the first sentence, by striking ''which is listed'' and all that follows through the end of the sentence and inserting ''that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action.''; and

(4) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''.

(d) ELIMINATION OF ENDANGERED SPECIES COMMITTEE PROCESS.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsections (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n);

(2) by redesignating subsections (o) and (p) as subsections (e) and (f), respectively;

(3) in subsection (e), as redesignated by paragraph (2) of this subsection—

(A) in the heading, by striking ''EXEMPTION AS PROVIDING''; and

(B) by striking ''such section'' and all that follows through ''(2)'' and inserting ''such section,''; and

(4) in subsection (f), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking ''is authorized'' and all that follows through ''of this section'' and inserting ''may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action,''; and

(B) by striking the second sentence.

SEC. 12. EXCEPTIONS TO PROHIBITIONS.

(a) INCIDENTAL TAKE PERMITS.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking ''and'' after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

''(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

''(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

''(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and'';

(2) in subparagraph (B) by striking ''and'' after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

''(v) the term of the permit is reasonable, taking into consideration—

''(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

''(II) the extent to which the plan will enhance the conservation of covered species;

''(III) the adequacy of information underlying the plan;

''(IV) the length of time necessary to implement and achieve the benefits of the plan; and

''(V) the scope of the plan's adaptive management strategy; and''; and

(3) by striking subparagraph (C) and inserting the following:

''(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be roughly proportional to the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i). This paragraph shall not be construed to limit the authority of the Secretary to require greater than acre-for-acre mitigation where necessary to address the extent of such impacts. In any case in which various terms and conditions are available, the terms and conditions shall be capable of successful implementation and shall be consistent with the objective of the applicant to the greatest extent possible.

''(4)(A) If the holder of a permit issued under this subsection for other than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

''(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

''(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water, or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

''(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

''(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

''(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

''(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

''(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

''(ii) the Secretary provides 60 days notice of revocation to the permittee; and

''(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.''.

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking ''thirty'' each place it appears and inserting ''45''.

(c) EXPERIMENTAL POPULATIONS.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking ''For purposes'' and all that follows through the end of the paragraph and inserting the following: ''For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.'';

(2) in paragraph (2)(B), by striking ''information'' and inserting ''scientific data''; and

(3) in paragraph (2)(C)(i), by striking ''listed'' and inserting ''determined to be an endangered species or a threatened species''.

(d) WRITTEN DETERMINATION OF COMPLIANCE.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) WRITTEN DETERMINATION OF COMPLIANCE.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination that a proposed use of the owner's property that is lawful under State and local law will comply with section 9(a), by submitting a written description of the proposed action to the Secretary by certified mail.

''(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

''(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

''(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

''(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

''(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

''(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will comply with section 9(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

''(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

''(6) If the Secretary fails to provide a written determination before the expiration of the period under paragraph (5)(A) (or any extension thereof under paragraph (5)(B)), the Secretary is deemed to have determined that the proposed use complies with section 9(a).

''(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.

''(8) Any use or action taken by the property owner in reasonable reliance on a written determination of compliance under paragraph (5) or on the application of paragraph (6) shall not be treated as a violation of section 9(a).

''(9) Any determination of compliance under this subsection shall remain effective—

''(A) in the case of a written determination provided under paragraph (5)(A), for the 10-

year period beginning on the date the written determination is provided; or

''(B) in the case of a determination that under paragraph (6) the Secretary is deemed to have made, the 5-year period beginning on the first date the Secretary is deemed to have made the determination.

''(10) The Secretary may withdraw a determination of compliance under this section only if the Secretary determines that, because of unforeseen changed circumstances, the continuation of the use to which the determination applies would preclude conservation measures essential to the survival of any endangered species or threatened species. Such a withdrawal shall take effect 10 days after the date the Secretary provides notice of the withdrawal to the requester.

''(11) The Secretary may extend the period that applies under paragraph (5) by up to 180 days if seasonal considerations make a determination impossible within the period that would otherwise apply.''.

(e) NATIONAL SECURITY EXEMPTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(l) NATIONAL SECURITY.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if such exemption is necessary for national security.''.

(f) DISASTER DECLARATION AND PROTECTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(m) DISASTER DECLARATION AND PROTECTION.—(1) The President may suspend the application of any provision of this Act in any area for which a major disaster is declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(2) The Secretary shall, within one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, promulgate regulations regarding application of this Act in the event of an emergency (including circumstances other than a major disaster referred to in paragraph (1)) involving a threat to human health or safety or to property, including regulations—

''(A) determining what constitutes an emergency for purposes of this paragraph; and

''(B) to address immediate threats through expedited consideration under or waiver of any provision of this Act.''.

SEC. 13. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

''PRIVATE PROPERTY CONSERVATION

''SEC. 13. (a) IN GENERAL.—The Secretary may provide conservation grants (in this section referred to as 'grants') to promote the voluntary conservation of endangered species and threatened species by owners of private property and shall provide financial conservation aid (in this section referred to as 'aid') to alleviate the burden of conservation measures imposed upon private property owners by this Act. The Secretary may provide technical assistance when requested to enhance the conservation effects of grants or aid.

''(b) AWARDING OF GRANTS AND AID.—Grants to promote conservation of endangered species and threatened species on private property—

''(1) may not be used to fund litigation, general education, general outreach, lobbying, or solicitation;

''(2) may not be used to acquire leases or easements of more than 50 years duration or fee title to private property;

''(3) must be designed to directly contribute to the conservation of an endangered species or threatened species by increasing the species' numbers or distribution; and

''(4) must be supported by any private property owners on whose property any grant funded activities are carried out.

''(c) PRIORITY.—Priority shall be accorded among grant requests in the following order:

''(1) Grants that promote conservation of endangered species or threatened species on private property while making economically beneficial and productive use of the private property on which the conservation activities are conducted.

''(2) Grants that develop, promote, or use techniques to increase the distribution or population of an endangered species or threatened species on private property.

''(3) Other grants that promote voluntary conservation of endangered species or threatened species on private property.

''(d) ELIGIBILITY FOR AID.—(1) The Secretary shall award aid to private property owners who—

''(A) received a written determination under section 10(k) finding that the proposed use of private property would not comply with section 9(a); or

''(B) receive notice under section 10(k)(10) that a written determination has been withdrawn.

''(2) Aid shall be in an amount no less than the fair market value of the use that was proposed by the property owner if—

''(A) the owner has foregone the proposed use;

''(B) the owner has requested financial aid—

''(i) within 180 days of the Secretary's issuance of a written determination that the proposed use would not comply with section 9(a); or

''(ii) within 180 days after the property owner is notified of a withdrawal under section 10(k)(10); and

''(C) the foregone use would be lawful under State and local law and the property owner has demonstrated that the property owner has the means to undertake the proposed use.

''(e) DISTRIBUTION OF GRANTS AND AID.—(1) The Secretary shall pay eligible aid—

''(A) within 180 days after receipt of a request for aid unless there are unresolved questions regarding the documentation of the foregone proposed use or unresolved questions regarding the fair market value; or

''(B) at the resolution of any questions concerning the documentation of the foregone use established under subsection (f) or the fair market value established under subsection (g).

''(2) All grants provided under this section shall be paid on the last day of the fiscal year. Aid shall be paid based on the date of the initial request.

''(f) DOCUMENTATION OF THE FOREGONE USE.—Within 30 days of the request for aid, the Secretary shall enter into negotiations with the property owner regarding the documentation of the foregone proposed use through such mechanisms such as contract terms, lease terms, deed restrictions, easement terms, or transfer of title. If the Secretary and the property owner are unable to reach an agreement, then, within 60 days of the request for aid, the Secretary shall determine how the property owner's foregone use shall be documented with the least impact on the ownership interests of the property owner necessary to document the foregone use.

''(g) FAIR MARKET VALUE.—For purposes of this section, the fair market value of the foregone use of the affected portion of the private property, including business losses, is what a willing buyer would pay to a willing seller in an open market. Fair market value shall take into account the likelihood that the foregone use would be approved under State and local law. The fair market value shall be determined within 180 days of the documentation of the foregone use. The fair market value shall be determined jointly by 2 licensed independent appraisers, one selected by the Secretary and one selected by the property owner. If the 2 appraisers fail to agree on fair market value, the Secretary and the property owner shall jointly select a third licensed appraiser whose appraisal within an additional 90 days shall be binding on the Secretary and the private property owner. Within one year after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall promulgate regulations regarding selection of the jointly selected appraisers under this subsection.

''(h) LIMITATION ON AID AVAILABILITY.—Any person receiving aid under this section may not receive additional aid under this section for the same foregone use of the same property and for the same period of time.

''(i) ANNUAL REPORTING.—The Secretary shall by January 15 of each year provide a report of all aid and grants awarded under this section to the Committee on Resources of the House of Representatives and the Environment and Public Works Committee of the Senate and make such report electronically available to the general public on the website required under section 14.''.

SEC. 14. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

''PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

''SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

''(1) each list published under section 4(c)(1);

''(2) all final and proposed regulations and determinations under section 4;

''(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

''(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

''(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

''(6) data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.''.

SEC. 15. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

''ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

''SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

''(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

''(1) expenditures of Federal funds on a species-by-species basis, and expenditures of

Federal funds that are not attributable to a specific species;

''(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

''(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

''(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

''(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

''(2) attest to the accuracy of such data.''.

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

''(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).''.

SEC. 16. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

''REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

''SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

''(b) ELIGIBILITY FOR AND AMOUNT.—Eligibility for, and the amount of, reimbursement under this section shall not be conditioned on the presentation of the body of any animal for which reimbursement is sought.

''(c) LIMITATION ON REQUIREMENT TO PRESENT BODY.—The Secretary may not require the owner of livestock to present the body of individual livestock as a condition of payment of reimbursement under this section.

''(d) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

''(e) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.''.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

''(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

''(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

''(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.''.

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking ''section 15'' and inserting ''section 18''.

SEC. 18. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking ''any endangered species or threatened species listed'' and inserting ''any species determined to be an endangered species or a threatened species''; and

(2) in subsection (b) in paragraph (1), by striking ''endangered species and threatened species listed'' and inserting ''species determined to be endangered species and threatened species''.

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking ''of the Interior (hereinafter in this section referred to as the 'Secretary')'';

(2) in subsection (d), by striking ''Merchant Marine and Fisheries'' and inserting ''Resources''; and

(3) in subsection (e)—

(A) in paragraph (1), by striking ''of the Interior (hereinafter in this subsection referred to as the 'Secretary')''; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of fish or wildlife determined to be an endangered species under section 4'';

(B) in paragraph (1)(G), by striking ''threatened species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting ''species of fish or wildlife determined to be a threatened species under section 4'';

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking ''of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of plants determined to be an endangered species under section 4''; and

(D) in paragraph (2)(E), by striking ''listed pursuant to section 4 of this Act'' and inserting ''determined to be a threatened species under section 4'';

(2) in subsection (b)—

(A) by striking ''(1)'' before ''SPECIES'' and inserting ''(1)'' before the first sentence;

(B) in paragraph (1), in the first sentence, by striking ''adding such'' and all that follows through '': *Provided*, That'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if''; and

(C) in paragraph (1), in the second sentence, by striking ''adding such'' and all that follows through ''this Act'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4'';

(3) in subsection (c)(2)(A), by striking ''an endangered species listed'' and inserting ''a species determined to be an endangered species'';

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: ''(i) are not determined to be endangered species or threatened species under section 4, and'';

(5) in subsection (e), by striking clause (1) and inserting the following: ''(1) are not determined to be endangered species or threatened species under section 4, and''; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: ''(A) are not determined to be endangered species or threatened species under section 4, and''; and

(B) by striking ''Secretary of the Interior'' each place it appears and inserting ''Secretary''.

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''an endangered species'' and all that follows through ''section 4 of this Act'' and inserting ''an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4'';

(B) by striking ''section 9(a) of this Act'' and inserting ''section 9(a)''; and

(C) by striking ''fish or wildlife listed by the Secretary as endangered'' and inserting ''fish or wildlife determined to be an endangered species or threatened species by the Secretary''; and

(2) in paragraph (2)—

(A) by inserting ''or a threatened species'' after ''endangered species'' each place it appears; and

(B) in subparagraph (B), by striking ''listed species'' and inserting ''endangered species or threatened species''.

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting ''or threatened species'' after ''endangered species''; and

(2) by striking ''of this Act''.

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after ''(f)'' the following: ''PRE-ACT PARTS AND SCRIMSHAW.—''; and

(2) in paragraph (2), by striking ''of this Act'' each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after ''(g)'' the following: ''BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—''.

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking ''endangered species or threatened species listed'' and inserting ''species determined to be an endangered species or a threatened species''.

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking ''Such persons'' and inserting ''Such a person''.

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) ''SECRETARY'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the Secretary'':

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) ''PRESIDENT'' FOR ''HE''.—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking ''he'' and inserting ''the President''.

(3) ''SECRETARY OF THE INTERIOR'' FOR ''HE''.—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by striking ''he'' and inserting ''the Secretary of the Interior''.

(4) ''PERSON'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the person'':

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) ''DEFENDANT'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the defendant''.

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO ''HIM''.—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking ''him or the Secretary of Commerce'' each place it appears and inserting ''the Secretary''.

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking ''him'' and inserting ''the Secretary''.

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking ''him'' and inserting ''the Secretary''.

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking ''him'' and inserting ''the Secretary''.

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking ''him'' and inserting ''the Secretary''.

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking ''him'' each place it appears and inserting ''such person''.

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking ''him'' and inserting ''the Secretary''.

(7) REFERENCES TO ''HIMSELF OR HERSELF''.—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking ''himself or herself'' each place it appears and inserting ''the defendant''.

(8) REFERENCES TO ''HIS''.—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking ''his'' and inserting ''the''.

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking ''his'' and inserting ''the Secretary's''; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking ''his periodic review'' and inserting ''periodic review by the Secretary''.

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking ''his'' and inserting ''the applicant's''.

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking ''his'' and inserting ''the Secretary's''.

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking ''his'' each place it appears and inserting ''such person's''.

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking ''his'' and inserting ''the Secretary's''.

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking ''his'' and inserting ''the''.

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking ''his'' and inserting ''the Secretary's'';

(ii) in subsections (a)(3) and (b)(3) by striking ''his or her'' each place it appears and inserting ''the defendant's'';

(iii) in subsection (d) by striking ''his'' and inserting ''the officer's or employee's'';

(iv) in subsection (e)(3) in the second sentence by striking ''his'' and inserting ''the person's''; and

(v) in subsection (g)(1) by striking ''his'' and inserting ''the person's''.

SEC. 19. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

''Sec. 5. Recovery plans and land acquisition.''

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

''Sec. 13. Private property conservation.
''Sec. 14. Public accessibility and accountability.
''Sec. 15. Marine Mammal Protection Act of 1972.
''Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.
''Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
''Sec. 18. Authorization of appropriations.''.

SEC. 20. CERTAIN ACTIONS DEEMED IN COMPLIANCE.

(a) ACTIONS DEEMED IN COMPLIANCE.—During the period beginning on the date of the enactment of this Act and ending on the date described in subsection (b), any action that is taken by a Federal agency, State agency, or other person and that complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is deemed to comply with sections 7(a)(2) and 9(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B)) (as amended by this Act) and regulations issued under section 4(d) of such Act (16 U.S.C. 1533(d)).

(b) TERMINATION DATE.—The date referred to in subsection (a) is the earlier of—

(1) the date that is 5 years after the date of the enactment of this Act; and

(2) the date of the completion of any procedure required under subpart D of part 402 of title 50, Code of Federal Regulations, with respect to the action referred to in subsection (a).

(c) LIMITATION ON APPLICATION.—This section shall not affect any procedure pursuant to part 402 of title 50, Code of Federal Regulations, that is required by any court order issued before the date of the enactment of this Act.

The CHAIRMAN. No amendment to that amendment is in order except those printed in House Report 109–240. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–240.

AMENDMENT NO. 1 OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. POMBO:

Page 2, strike line 24, and all that follows through page 3, line 18, and insert the following:

''(C) In carrying out subparagraph (B), the Secretary shall undertake necessary measures to assure—

''(i) compliance with guidance issued under section 515 of the Treasury and General Government Appropriations Act of 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary;

''(ii) data consists of empirical data; or

''(iii) data is found in sources that have been subject to peer review by qualified individuals recommended by the National Academy of Sciences to serve as independent reviewers for a covered action in a generally acceptable manner.''.

Page 4, strike lines 3 through 11, and redesignate the subsequent subsection accordingly.

Page 4, after line 14, insert the following:

(d) CONFORMING AMENDMENT.—Section 3 (16 U.S.C. 1532) is further amended in paragraph (18), as redesignated by subsection (a) of this section, by striking ''Trust Territory of the Pacific Islands'' and inserting ''Commonwealth of the Northern Mariana Islands''.

Page 6, after line 24, insert the following:

(d) ANALYSIS OF IMPACTS AND BENEFITS.—Section 4(a) (16 U.S.C. 1533(a)), as amended by section 4(a) of this Act, is further amended by striking paragraph (3) and inserting the following:

''(4)(A) The Secretary shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, prepare an analysis of—

''(i) the economic impact and benefit of that determination;

''(ii) the impact and benefit on national security of that determination; and

''(iii) any other relevant impact and benefit of that determination.

''(B) Nothing in this paragraph shall delay the Secretary's decision or change the criteria used in making determinations under paragraph (1).''.

Page 7, line 3, before the period insert '', and redesignate paragraph (4) (as added by section 4(d) of this Act) as paragraph (3)''.

Page 16, line 14, insert ''(A)'' after ''(2)''.

Page 16, after line 19, insert the following:

''(B) Nothing in this paragraph shall be construed to affect the authority of the Secretary to issue any emergency regulation pursuant to section 4(b)(6).

Page 19, line 4, after ''costs'' insert '', including direct, indirect and cumulative costs,''.

Page 20, line 5, strike ''by''.

Page 24, beginning at line 3, strike ''TO ENSURE CONSISTENCY WITH DEVELOPMENT PLAN''.

Page 27, line 24, after ''agreement'' insert ''from funds appropriated under section 18(a)(1)''.

Page 33, after line 20, insert the following:

''(F) A species conservation contract agreement may list other Federal program payments that incidentally contribute to conservation of a listed species. The head of a Federal agency shall not use the payments for the purposes of implementing the species conservation contract agreement.

Page 39, strike line 23 and all that follows through page 40, line 2, and insert the following:

''(i) addresses or affects species that are determined to be endangered species or threatened species and the species were not addressed or the effects were not considered previously in the agreement; or

Page 43, line 12, strike '', under section 4'' and insert ''determined''.

Page 43, line 19, strike the close quotation mark and the following period, and after line 19, insert the following:

''(6) This subsection shall not apply to any agency action that may affect any species for which a permit is issued under section 10 for other than scientific purposes, if the action implements or is consistent with any conservation plan or agreement incorporated by reference in the permit.''.

Page 49, beginning at line 15, strike ''offered by the Secretary pursuant to paragraph (2)(B)'' and insert ''required''.

Page 49, line 17, after ''taking'' insert ''or otherwise comply with the requirements of paragraph (2)(B)''.

Page 49, line 18, after ''proportional'' insert ''in extent''.

Page 53, line 22, strike ''requester'' and insert ''requestor''.

Page 56, line 14, strike ''10'' and insert ''5''.

Page 56, beginning at line 15, strike ''date the Secretary provides notice of the withdrawal to the requestor'' and insert ''date the requestor receives from the Secretary, by certified mail, notice of the withdrawal''.

Page 56, line 19, insert ''or biological'' before ''considerations''.

Page 57, line 21, strike ''immediate'' and insert ''imminent''.

Page 57, after line 23, insert the following:

(g) EXEMPTION FROM LIABILITY FOR TAKE OF LISTED AQUATIC SPECIES.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(n) EXEMPTION FROM LIABILITY FOR TAKE OF LISTED AQUATIC SPECIES.—The operator of a water storage reservoir, water diversion structure, canal, or other artificial water delivery facility shall not be in violation of section 9(a) by reason of any take of any aquatic species listed under section 4(c) that results from predation, competition, or other adverse effects attributable to recreational fishing programs managed by a State Agency in a river basin in which the water storage reservoir, water diversion structure, canal, or other artificial water delivery facility is located.''.

Page 60, line 19, strike ''180'' and insert ''270''.

Page 60, beginning at line 20, strike ''unresolved questions regarding the documentation of the foregone proposed use or''.

Page 60, beginning at line 25, strike ''the documentation of the foregone use established under subsection (f) or''.

Page 61, line 10, after ''mechanisms'' insert ''that would benefit the species''.

Page 61, line 15, after ''documented'' insert ''to benefit the species''.

Page 61, line 17, after ''use'' insert '', which shall not include transfer of title''.

Page 62, beginning at line 7, strike ''binding on the Secretary and the private property owner'' and insert ''the best and final offer by the Secretary''.

Page 62, line 15, after ''for'' insert ''essentially''.

Page 66, strike lines 21 through 26 and insert the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—Payments under this section are subject to appropriations.''.

At the end of the bill add the following:

SEC. 21. CONSOLIDATION OF PROGRAMS.

(a) TRANSFER.—The President shall, by not later than one year after the date of enactment of this Act, transfer to the Secretary of the Interior all duties, resources, and responsibilities of the Secretary of Commerce under the Endangered Species Act of 1973 existing immediately before the enactment of this Act.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Section 3 (16 U.S.C. 1532) is further amended in paragraph (15) (relating to the definition of ''Secretary'') by striking ''or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect one year after the date of the enactment of this Act.

(c) REPORT.—No later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Commerce shall jointly submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a detailed description of the process by which the transfer of functions under the amendment made by subsection (a) shall be implemented.

(d) PRIOR DETERMINATIONS AND ACTIONS NOT AFFECTED.—This section shall not affect any determination or action by the Secretary of Commerce made or taken, respectively, under the Endangered Species Act of 1973 before the date of the enactment of this Act, except that such determinations and actions shall be treated as determinations and actions, respectively, of the Secretary of the Interior.

SEC. 22. REVIEW OF PROTECTIVE REGULATIONS.

The Secretary of the Interior shall—

(1) review regulations issued before the date of the enactment of this Act pursuant to section 4(d) of the Endangered Species Act of 1973, in order to determine whether revision of such regulations would be desirable in order to facilitate and improve cooperation with the States pursuant to section 6 of such Act; and

(2) report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate regarding the findings of such review.

SEC. 23. PROVISION OF INFORMATION REGARDING COMPLIANCE COSTS OF FEDERAL POWER ADMINISTRATIONS.

(a) CUSTOMER BILLINGS.—The Administrator of the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration shall each include in monthly firm power customer billings sent to each customer information identifying and reporting such customer's share of the Federal power marketing and generating agencies' direct and indirect costs incurred by such administration related to compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and activities related to such Act.

(b) DIRECT COSTS.—In identifying and reporting direct costs, each Administrator shall include Federal agency obligations related to study-related costs, capital, operation, maintenance, and replacement costs, and staffing costs.

(c) INDIRECT COSTS.—In identifying and reporting indirect costs, each Administrator shall include foregone generation and replacement power costs.

(d) COORDINATION.—Each Administrator shall coordinate identification of costs under this subsection with the appropriate Federal power generating agencies.

SEC. 24. SURVEY OF BLM LANDS AND FOREST SERVICE LANDS FOR MANAGEMENT FOR RECOVERY OF LISTED SPECIES.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) survey all lands under the administrative jurisdiction of the Bureau of Land Management and all lands under the administrative jurisdiction Forest Service immediately before the enactment of this Act, for the purpose of assessing the value of such lands for management for the recovery of any species included in a list published under section 4(c) of the Endangered Species Act of 1973 and for addition to the National Wildlife Refuge System; and

(2) make recommendations to the Congress for managing any such lands as are appropriate as part of the National Wildlife Refuge System.

(b) LIMITATION ON TRANSFERS.—The Secretary of the Interior may not transfer administrative jurisdiction pursuant to any recommendation under subsection (a)(2) except as authorized by a statute enacted after the date of the enactment of this Act.

SEC. 25. RELATIONSHIP BETWEEN SECTION 7 CONSULTATION AND INCIDENT TAKE AUTHORIZATION UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is equivalent to a section 101 incidental take authorization required under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1631 et seq.) for receiving dock building permits.

The CHAIRMAN. Pursuant to House Resolution 470, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 10 minutes.

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

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

Mr. Chairman, the manager's amendment makes a number of technical changes to clarify certain provisions and address issues concerning science, the definition of ''jeopardy,'' consolidation of ESA-related programs, and review of protective regulations. It allows actions authorized under an approved section 10 permit to be carried out without duplicative consultation. It prevents water stakeholders from being held accountable for impacts due to State actions. It requires the four Power Marketing Administrations to include ESA costs in their monthly billing statements. It directs the Secretary of the Interior to survey certain Federal lands to assess their value for a report back to Congress. It clarifies conflicting statutes to make ESA the governing statutory authority when receiving a dock-building permit.

That is the short version of what is included in the manager's amendment.

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

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

Mr. Chairman, the manager's amendment makes significant changes in the bill as it was reported from the Committee on Resources. These changes are likely to result in more species extinctions at greater loss of taxpayer dollars.

The pending legislation will increase direct spending in the discretionary funding law, which we will get into in general debate, and it could rise to more than $600 million a year, $235 million more per year than we are spending today for species conservation, according to the Congressional Budget Office.

Let me make one point perfectly clear here: the manager's amendment is not something I agreed to in my discussions with the gentleman from California (Chairman POMBO). To say that I agree with 90 percent of this bill is not an accurate description, or is an unfair way to paint the matter.

One of the points that we had reached agreement on was that there was to be a recovery-based standard of determining when Federal agency actions jeopardize the continued existence of a species. The manager's amendment drops this crucial provision. It cripples it.

While I was willing to eliminate critical habitat, it was only on the condition that we ensure that there were adequate provisions in place to encourage recovery. Without this definition, the bill will not promote recovery. We will likely see more endangered and threatened species. It is upon that ground that I oppose this manager's amendment, as well as the loosened compensation standards put in order by the manager's amendment.

It eliminates the bill's requirement that appraisals determining the market value of foregone use of property are binding on both the Secretary and the property owner. Instead, the appraisal is binding only on the Secretary, and the property owner may then go to court to seek additional compensation. That makes the current pending legislation worse, and it will increase the cost of this entitlement program to property owners and it will increase that cost to the American taxpayer.

Mr. Chairman, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN).

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

Mr. Chairman, I rise to deal with the section of the manager's amendment that covers the manatees. Buried in this manager's amendment in dry language is a contest between Florida developers on the one hand and Florida manatees on the other. In this Republican Congress, guess who wins, the developers or the manatees? It is not even close.

This is an unprecedented move to exempt a single type of activity, dockbuilding, from a key provision of the Marine Mammal Protection Act. After losing in court, some boaters and marine contractors have come to Congress asking for special favors so they can continue their development without addressing the impacts on the endangered manatee. It is not only bad policy, but it also undermines recovery efforts by the State of Florida and the Fish and Wildlife Service.

By way of background, this section would allow those applying for dock permits to simply prove that their activities would not, quote-unquote, jeopardize, would not jeopardize the continued existence of endangered and threatened marine mammal species as mandated by the Endangered Species Act, section 7. Today, under existing law they must prove that their activities would have only a negligible impact on these species as mandated by the Marine Mammal Protection Act, section 101. This simple change in wording lowers our national standard for protection of this well-loved species. Why? Because no single dock is likely to jeopardize manatees, but a whole succession of docks is likely to do exactly that. This amendment clearly targets manatees in Florida, but we really have no idea what kind of precedent or implications this would have for other critically endangered marine mammals.

Now, it did not take long for the developers to get here. They lost a lawsuit on July 13, 2005, against the Fish and Wildlife Service in which the court found that the Marine Mammal Protection Act does in fact apply to dockbuilding activities that would lead to incidental take of marine mammals, and specifically manatees in Florida's inland waters. This amendment, therefore, is rushed into this particular bill, just part of the manager's amendment; it would undermine the process that has gone on for several years that the State of Florida and the Fish and Wildlife Service have engaged in to recover manatees in Florida. It would completely short-circuit the progress made by the State and those Federal agencies.

Finally, the minority and majority have already reached agreements and passed a version of the Marine Mammal Protection Act out of the Committee on Resources, and this amendment flies directly in the face of that process.

So here is the situation: Florida developers are not pleased by a court case in July. They rush in here, they get a provision in this bill to make sure that they win and the Florida manatees lose. Bad policy, bad politics.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I thank the gentleman for yielding me this time. The interesting thing about the manager's amendment is that it takes a very bad bill and makes it even worse.

I just want to focus on one aspect of this legislation which I think would be amusing in some sense if it were not for the fact that it is an example of a kind of cynical hypocrisy in those people who call themselves fiscally conservative. The bill guts the Endangered Species Act, there is no question about that, and all the protections that are involved there; but then it creates a whole new government giveaway program for some of the Nation's richest landowners and property owners. What this bill does is add insult to injury.

If you think that you are a responsible fiscal conservative, if you do not want to create a big new government giveaway program, then you should be adamantly opposed to this legislation. You might want to even cast aside the environmental aspects of it, because if you look at the monetary implications of this and the budgetary implications of this bill, it is going to create an even bigger budget deficit in the context of this huge giveaway program.

People are using here more and more frequently the devastating impact of the two hurricanes. They want to sell off the national parks, they want to remove the safety net for millions of Americans who rely upon government services, and now they are going to make it even more difficult for this Congress to provide the kind of programs and assistance that are needed in terms of health care, education, a variety of things by passing a piece of legislation that builds an even bigger budget deficit by creating a whole new giveaway program, a new entitlement program for some of the wealthiest people in the country, some of the biggest landowners in the country.

All they have to do is come here under this legislation, just to ask for it, and it will be given to them. If you really want to conserve the fiscal integrity of this process, please vote against this bill.

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

I look forward to the gentleman's opposition to the highway bill and any new purchases of land, to the wildlife refuge system, to the park system, or any other thing that we spend money on, because he sees it as a big giveaway, a big government giveaway system.

Again, what the underlying bill does is if you step in and take habitat from a private property owner and you tell them that you restrict them and you tell them they cannot use part of their property, then we set up a system of incentives and grants.

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But, if in the end, the Secretary says your property is necessary for the recovery of an endangered species, therefore you cannot use it, we compensate them for that and we pay them for it. If we build a highway across somebody's property, even though that may increase the value of the rest of the property, we pay them for it. If we take part of their property for a wildlife refuge, even though that may increase the value of the rest of their property, we pay them for it. But, if we take their property for endangered species habitat, we tell them, you are out of luck.

Now I have guys coming down here saying, this is a big, new giveaway system, that we are going to give away things to people. No. This is a big takeaway. You are taking away from them. You have been doing it for 30 years. Now it is time to pay for it. You are taking land away from people. Every little small farmer, rancher across the country, every homeowner across the country who has had their property taken away from them should

be compensated for it. You are taking away their land. There is nothing wrong with that.

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

Mr. POMBO. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, when the Contract With America was written, this provision was scored by CBO at $3.2 billion; $3.2 billion.

Mr. POMBO. Mr. Chairman, reclaiming my time, this provision was not in the Contract With America. Nobody seems to be constrained by the truth here. This is a brand-new way of dealing with compensating property owners whose land is taken. CBO scored this at $10 million. This is a brand-new way of dealing with a very real problem and assuring some kind of protection to my property owners and your property owners.

Mr. Chairman, it was just a couple of weeks ago that the Supreme Court came out with a decision where this Congress stood up and said, you cannot use eminent domain to take away private property, to take someone's house away from them and give it to another individual. And all of you ran down on the floor and said you were all in support of that.

We are going to stop the government from being able to use eminent to take away somebody's house and give it to somebody else. But, under that provision, you have to pay them for their house. Under current law, you do not have to pay when you steal somebody's property for declared habitat at this time. You guys are all fine with that. Is that because we are talking about farmers and ranchers? Is that why you do not want to pay them? But when we are talking about somebody's house, all of a sudden you want to pay them? I mean, you guys have no consistency in this whatsoever.

I believe if you take away somebody's private property, you should have to pay them for it, and that is what we are trying to do in this underlying bill. I know that some of my colleagues are just philosophically opposed to that, and God love you. But the fact of the matter is, if you take away somebody's private property, you ought to have to pay for it.

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

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

Mr. FARR. Mr. Chairman, when you do take, meaning you have no value left, then you have just compensation, was the Supreme Court decision.

Mr. POMBO. Mr. Chairman, reclaiming my time, that is not what the Constitution says. The Constitution says, nor shall private property be taken for a public use without just compensation. That is what it says. It does not say the government can step in and take 90 percent of your value and then it is okay; it does not say they can take away 30 percent of your value and that is okay.

Is the gentleman going to oppose the highway bill because we compensate people when we take their land away for a highway, even though we do not take 100 percent of the use? Why is it okay in that instance, but it is not okay when it comes to protecting habitat?

You guys talk big about wanting to protect habitat and protect species, but 90 percent of the habitat for endangered species is on private property. The only way you are going to recover species is if you bring in the property owners and have them be part of the solution. You are stopping that from happening right now under current law and in the substitute. You are wrong on this one.

We have to pay when you take away somebody's private property. That is what we have to do. That is what is in the underlying bill. I am sorry if you have a philosophical problem with paying for what you are taking.

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

Mr. RAHALL. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, the part that I have trouble with is that we did not authorize any new money to fund this. You just said, take it out of the Interior Appropriations bill. Well, I want to tell you, we have not funded the Endangered Species Act properly under this administration, and if there is not any money, it is going to have to come out of somebody else's hide. It is going to be the Fish and Wildlife Service, it is going to be the Park Service; somebody is going to have to fund this, and it is going to cost a lot more than $10 million a year. That is laughable.

Mr. POMBO. Mr. Chairman how much time remains?

The CHAIRMAN. The gentleman from California (Mr. POMBO) has 3½ minutes remaining; the gentleman from West Virginia (Mr. RAHALL) has 2 minutes remaining.

Mr. POMBO. Mr. Chairman, I yield myself 30 seconds to say, this is another area where you guys are just not consistent. One of you comes down and beats us up because we are spending too much money about this massive increase in spending under this bill. Somebody else comes down and says, you do not fully fund endangered species under this bill. Either we spend too much or we do not spend enough. You cannot have it both ways. Either we spend too much or we do not spend enough, but you cannot keep coming down here and trying to make both arguments.

Mr. RAHALL. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from West Virginia (Mr. RAHALL) has the right to close.

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

Mr. POMBO. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I say to my friend from West Virginia, I appreciate all the work that he and his staff put into this bill. This was an important thing for us to go through, and I think that we produced a good bill at the end of that.

I know that there are issues in the underlying bill that we disagree on, and we probably always will. I will tell the gentleman, as we continue to work forward, I will continue to work with the gentleman as this bill moves through the process, continue to work with the gentleman and try to work out whatever differences that still exist under the bill.

The gentleman from West Virginia operated under good faith with me, I believe I did the same thing with the gentleman throughout this entire process, and I pledge to the gentleman that we will continue to work together to produce the best possible bipartisan bill we can to deliver to the President's desk.

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

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

Mr. Chairman, I say to my chairman, I appreciate his concluding comments there and, as I have said all along, we have negotiated in good faith, and I do want to continue that relationship that we have. Maybe we can still work on this bill together; I hope we can. But we will see as the process goes forward.

Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman has 1½ minutes remaining.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

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

Mr. BOEHLERT. Mr. Chairman, I would just like to correct a couple of things. First of all, this is mandatory spending we are talking about. Secondly, we do not allow the taxpayer protection in this bill that is allowed in highway cases. That is important to distinguish between the two.

Mr. Chairman, we are all in agreement. There is broad and justifiable consensus that the act is overdue for reform, but reforming the law should not be a euphemism for gutting the law, and that is exactly what the bill would do.

The list of areas of disagreement are very strong, but I would also point out that we in the substitute bill embrace many of the provisions in the base bill because they need to be addressed in a responsible way and, in many cases, we take the exact language. But section 13 is totally unacceptable. That is the big controversy; opening up an open-ended entitlement, putting the taxpayers at great risk.

I urge opposition to the base bill.

Mr. Chairman, I rise in opposition to the bill. I have no quarrel with the stated purpose of the bill—to reform the Endangered Species Act. Chairman POMBO is correct, there is broad and justifiable consensus that the Act is overdue for reform.

But "reforming" the law should not be a euphemism for "gutting" the law, and that's what this bill would do. I urge my colleagues to look beyond the descriptions of the bill and to examine the bill itself.

The most advertised feature of the bill is that it gets rid of the current "critical habitat" provisions of the law and replaces the habitat requirements with flexible, comprehensive, science-based "recovery plans." Sounds pretty good. And it would be pretty good if that were a full description of what the bill did. But what the sponsors have obscured is that, under the bill, the recovery plans are utterly unenforceable. No one ever has to abide by them. Not only that, the plans will be written through a process that guarantees delay, but does not guarantee that the best science will be used.

So is there a way to get rid of the current "critical habitat" burdens and to use recovery plans without weakening the law? Of course there is. And our Bipartisan Substitute shows how. We eliminate all the provisions of current law that require critical habitat designations just as in H.R. 3824, but we make recovery plans enforceable and we ensure that they have strong scientific basis. That's how you get real reform while still protecting real species.

It's not impossible to balance the need for reform with the need to protect species. But instead, we have a bill before us that is balanced in its rhetoric, but not in its effect.

The bill weakens just about every feature of law designed to protect species—for example, the review of federal actions to make sure they do not unduly harm species.

Now I am not trying to suggest that H.R. 3824 is all bad news. In fact, many of its provisions—the incentives for landowners to protect species, the public information requirements, the requirements to better involve the states—are largely improvements to the law. That's why our Substitute includes all those provisions, often in language identical to that in H.R. 3824. So we commend the Resources Committee for so many of the bill's provisions and we embrace them.

But there is one provision of H.R. 3824 that our Substitute does not include at all. And that's Section 13, which creates an open-ended entitlement that will open the federal treasury to provide mandatory payments to developers. This is a bad idea on philosophical and legal grounds, but this is an especially bad time to expose taxpayers to such a burden.

We don't have to endanger taxpayers in order to reform the Endangered Species Act. We don't have to make it easier for species to become extinct to reform the Endangered Species Act. All we need to do to reform the Act is to make sure that common sense isn't trumped by ideology.

I urge my colleagues of defeat H.R. 3824, which just waves the banner of reform to distract attention from its actual content. Vote instead for real reform. Vote for the Bipartisan Substitute.

Mr. RAHALL. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me this time.

I just want to say that when the gentleman talks about a taking, that is not what his legislation does. All that has to happen is that a landowner proposes a use for his property, and if that use is ruled as a taking, the landowner gets compensated. The landowner does not show that they could do that, that they could go through the city zoning, they could go through the county zoning, that they would get those permits to build those houses or whatever else he wants to do, or he could build that commercial establishment, no showing of that. Yet, under this legislation, he is entitled to compensation. Nothing has been taken, only the suggestion in the proposal on a plan.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from California (Mr. POMBO).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–240.

AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Acting CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment No. 2 in the nature of a substitute offered by Mr. GEORGE MILLER of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendment references.
Sec. 3. Definitions.
Sec. 4. Determinations of endangered species and threatened species.
Sec. 5. Repeal of critical habitat requirements.
Sec. 6. Petitions and procedures for determinations and revisions.
Sec. 7. Reviews of listings and determinations.
Sec. 8. Protective regulations.
Sec. 9. Secretarial guidelines; State comments.
Sec. 10. Recovery plans and land acquisitions.
Sec. 11. Cooperation with States and Indian tribes.
Sec. 12. Interagency cooperation and consultation.
Sec. 13. Exceptions to prohibitions.
Sec. 14. Private property conservation.
Sec. 15. Public accessibility and accountability.
Sec. 16. Annual cost analyses.
Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
Sec. 18. Authorization of appropriations.
Sec. 19. Miscellaneous technical corrections.
Sec. 20. Establishment of Science Advisory Board.
Sec. 21. Clerical amendment to table of contents.

(b) SHORT TITLE.—This Act may be cited as the "Threatened and Endangered Species Recovery Act of 2005".

SEC. 2. AMENDMENT REFERENCES.

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 such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

"(2) The term 'best available scientific data' means data and analyses, regardless of source, produced by scientifically accepted methods and procedures that are available to the Secretary at the time of a decision or action for which such data are required by this Act, and that meet scientifically accepted standards of objectivity, accuracy, reliability, and relevance. For the purpose of this paragraph, the term 'scientifically accepted' means those methods, procedures, and standards that are widely used within the relevant fields of science, including wildlife biology and management.".

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

"(13) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.".

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

"(12) The term 'jeopardize the continued existence' means to engage in an action that, directly or indirectly, makes it less likely that a threatened species or an endangered species will be brought to the point at which measures provided pursuant to this Act are no longer necessary, is likely to significantly delay doing so, or is likely to significantly increase the cost of doing so.".

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking "section 3(13)" and inserting "section 3(14)".

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(2) and inserting the following:

"DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

"SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

"(A) The present or threatened destruction, modification, or curtailment of its habitat or range, including by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

"(B) Overutilization for commercial, recreational, scientific, or educational purposes.

"(C) Disease or predation.

"(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

"(E) Other natural or manmade factors affecting its continued existence.".

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking ''best scientific and commercial data available to him'' and inserting ''best available scientific data''; and

(2) by inserting ''Federal agency, any'' after ''being made by any''.

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

''(2)(A) The Secretary shall—

''(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

''(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should be proposed for—

''(I) removal from such list;

''(II) change in status from an endangered species to a threatened species; or

''(III) change in status from a threatened species to an endangered species.

''(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).''.

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(2) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (1) of this subsection, by striking subparagraph (D).

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (1) of this subsection, by striking ''determination, designation, or revision referred to in subsection (a)(1) or (3)'' and inserting ''determination referred to in subsection (a)(1)''.

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (1) of this subsection, by striking ''; and if such regulation'' and all that follows through the end of the sentence and inserting a period.

(5) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting ''and'' after ''if any''; and

(ii) by striking '', and specify any'' and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking '', designations,''.

(6) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking ''section 4(b)(7)'' and inserting ''section 4(b)(6)''.

(7) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking ''section 4(b)(3)(B)(iii)'' each place it appears and inserting ''section 4(b)(2)(B)(iii)''.

(8) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking ''or result in the destruction or adverse modification of any habitat of such species'' and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking ''or result'' and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking ''or its critical habitat''.

(9) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking ''that—'' and all that follows through ''(i) solely'' and inserting ''that solely''; and

(B) by striking ''; and'' and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) TREATMENT OF PETITIONS.—

(1) IN GENERAL.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, by adding at the end of subparagraph (A) the following: ''The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition.''

(2) ADDITIONAL DATA.—Section 4(b) is further amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, in subparagraph (A) by adding at the end the following: ''If the Secretary finds with respect to a petition under this subparagraph, that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the petitioned action, the Secretary, in consultation with the States, may for the purpose of seeking additional data postpone making a finding under this subsection by no more than 18 months.''.

(3) PRIORITIZATION ALLOWED.—Section 4(b) is further amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, in subparagraph (B)(iii) by amending subclause (I) to read as follows:

''(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded within current fiscal year funding by higher priority pending proposals determined by the Secretary to involve species at greater risk of extinction, and''.

(b) IMPLEMENTING REGULATIONS.—

(1) PROPOSED REGULATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking '', and'' and inserting a semicolon;

(ii) in clause (ii) by striking ''to the State agency in'' and inserting ''to the Governor of, and the State agency in,'';

(iii) in clause (ii) by striking ''such agency'' and inserting ''such Governor or agency'';

(iv) in clause (ii) by inserting ''and'' after the semicolon at the end; and

(v) by adding at the end the following:

''(iii) maintain, and shall make available, a complete record of all information not protected by copyright concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information.''; and

(B) by adding at the end the following:

''(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information not protected by copyright cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

''(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.''.

(2) FINAL REGULATIONS.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

''(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

''(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.'';

(B) in subparagraph (B)(i) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)'';

(C) in subparagraph (B)(ii) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)''; and

(D) by striking subparagraph (C).

(3) EMERGENCY DETERMINATIONS.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting ''with respect to a determination of a species to be an endangered species'' after ''any regulation''; and

(B) in subparagraph (B), by striking ''the State agency in'' and inserting ''the Governor of, and State agency in,''.

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

''(3) Each determination under paragraph (2)(B) shall consider the following as applicable:

''(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

''(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

''(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

''(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).''.

SEC. 8. PROTECTIVE REGULATIONS.

Section 4(d) (16 U.S.C. 1533(d)) is amended by—

(1) inserting ''(1)'' before ''Whenever'';

(2) inserting ''in consultation with the States'' after ''the Secretary shall''; and

(3) adding at the end the following new paragraphs:

''(2) Each regulation published under this subsection after the enactment of the Threatened and Endangered Species Recovery Act of 2005 shall be accompanied with a statement by the Secretary of the reason or reasons for applying any particular prohibition to the threatened species.

''(3) A regulation issued under this subsection after the enactment of the Threatened and Endangered Species Recovery Act of 2005 may apply to more than one threatened species only if the specific threats to, and specific biological conditions and needs of, the species are identical, or sufficiently similar, to warrant the application of identical prohibitions.

''(4) The Secretary may review regulations issued under this subsection prior to the enactment of the Threatened and Endangered Species Recovery Act of 2005. A species afforded protections by any such regulation shall continue to be afforded those protections until such time as the Secretary shall review the regulations issued prior to the enactment of the Threatened and Endangered

Species Recovery Act of 2005 as they pertain to that species.''.

SEC. 9. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking ''AGENCY'' and inserting ''SECRETARIAL'';

(B) in the matter preceding paragraph (1), by striking ''the purposes of this section are achieved'' and inserting ''this section is implemented'';

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking ''and'' after the semicolon at the end, and by inserting after paragraph (3) the following:

''(4) the criteria for determining best available scientific data pursuant to section 3(2); and''; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking ''subsection (f) of this section'' and inserting ''section 5'';

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting ''COMMENTS.—'' before the first sentence;

(B) by striking ''a State agency'' the first place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(C) by striking ''a State agency'' the second place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(D) by striking ''the State agency'' and inserting ''the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively''; and

(E) by striking ''agency's''.

SEC. 10. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking ''subsection (a) of this section'' and inserting ''subsection (k)''; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

''RECOVERY PLANS AND LAND ACQUISITION

''SEC. 5. (a) RECOVERY PLANS.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the conservation of the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

''(b) DEVELOPMENT OF RECOVERY PLANS.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

''(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 3 years after the date the species is listed under section 4(c).

''(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

''(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

''(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a schedule for such development or revision.

''(B) A species is described in this subparagraph if—

''(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

''(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

''(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

''(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

''(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

''(5) The Secretary, using the priority ranking system required under paragraph (3), shall revise such plans within 10 years after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005.

''(6) In development of recovery plans, the Secretary shall use comparative risk assessments, if appropriate, to consider and analyze the short-term and long-term consequences of alternative recovery strategies.

''(c) PLAN CONTENTS.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

''(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

''(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including such intermediate measures as are warranted to effect progress toward achievement of the criteria.

''(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

''(iv) An identification of those publicly owned areas of land or water that are necessary to achieve the purpose of the recovery plan under subsection (a), and, if such species is unlikely to be conserved on such areas, such other areas as are necessary to achieve the purpose of the recovery plan.

''(B) The Secretary may at the time of listing or at any time prior to the approval of a recovery plan for a species issue such guidance as the Secretary considers appropriate to assist Federal agencies, State agencies, and other persons in complying with the requirements of this Act by identifying either particular types of activities or particular areas of land or water within which those or other activities may impede the conservation of the species.

''(C) In specifying measures in a recovery plan under subparagraph (A), the Secretary shall—

''(i) whenever possible include alternative measures; and

''(ii) in developing such alternative measures, seek to identify, among such alternative measures of comparable expected efficacy and timeliness, the alternative measures that are least costly.

''(2) In the case of any species for which critical habitat has been designated prior to the enactment of the Threatened and Endangered Species Recovery Act of 2005, and for which no recovery plan has been developed or revised after the enactment of such Act, the Secretary shall treat the critical habitat of the species as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(4). In determining, pursuant to section 7(a)(2), whether an agency action is likely to jeopardize the continued existence of an endangered species or threatened species, the Secretary shall consider the effects of the action on any areas identified pursuant to subsection (b)(4).

''(d) RECOVERY TEAMS.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams that may advise the Secretary in the development of recovery plans under this section. The recovery teams may help the Secretary ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraph (1)(A)(iii) of subsection (c) are economically rigorous.

''(2) Such regulations shall—

''(A) establish criteria and the process for selecting the members of recovery teams that ensure that each team—

''(i) is of a size and composition to enable timely completion of the recovery plan; and

''(ii) includes sufficient representation from scientists with relevant expertise and constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan; and

''(B) include provisions regarding operating procedures of and recordkeeping by recovery teams.

''(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

''(e) REPORTS TO CONGRESS.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

''(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

''(A) an assessment of any significant change in the well-being of each such species, including—

''(i) changes in population, range, or threats; and

''(ii) the basis for that assessment; and

''(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

''(f) PUBLIC NOTICE AND COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

''(g) STATE COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State and any Indian tribe to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency and to any comments submitted by the Governor on behalf of a regional or local land use agency in the Governor's State.

''(h) INDIAN TRIBE DEFINED.—For purposes of this Act, the term 'Indian tribe' means—

''(1) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(2) with respect to Alaska, the Metlakatla Indian Community.

''(i) USE OF PLANS.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(2)(A) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

''(B) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

''(C) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

''(j) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

''(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking ''section 4(g)'' and inserting ''section 5(j)''.

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking ''section 4(f)'' and inserting ''section 5''; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking ''section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))'' and inserting ''section 5 of the Endangered Species Act of 1973''.

SEC. 11. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

''(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section 4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section 4(a)(1) in that State.

''(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

''(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

''(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

''(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

''(B) For the purposes of this paragraph, the term 'Indian tribe' means—

''(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(ii) with respect to Alaska, the Metlakatla Indian Community.'';

(2) in subsection (d)(1)—

(A) by striking ''pursuant to subsection (c) of this section'';

(B) by striking ''or to assist'' and all that follows through ''section 5(j)'' and inserting ''pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)''; and

(C) in subparagraph (F), by striking ''monitoring the status of candidate species'' and inserting ''developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)''; and

(3) in subsection (e)—

(A) by inserting ''(1)'' before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking ''at no greater than annual intervals'' and inserting ''every 3 years''; and

(C) by adding at the end the following:

''(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions.

''(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

''(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

''(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

''(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.''.

SEC. 12. INTERAGENCY COOPERATION AND CONSULTATION.

(a) CONSULTATION REQUIREMENT.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking ''endangered species'' and all that follows through the end of the sentence and inserting ''species determined to be endangered species and threatened species under section 4.'';

(2) in paragraph (2)—

(A) in the first sentence by striking ''action'' the first place it appears and all that follows through ''is not'' and inserting ''agency action authorized, funded, or carried out by such agency is not'';

(B) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''; and

(C) by adding at the end the following: ''In fulfilling the requirements of this paragraph, the Secretary shall take into account whether the adverse impacts to individuals of a species are outweighed by any conservation benefits to the species as a whole.''.

(3) in paragraph (4)—

(A) by striking ''listed under section 4'' and inserting ''an endangered species or a threatened species''; and

(B) by inserting '', under section 4'' after ''such species''.

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting ''permit or license'' before ''applicant'';

(2) in paragraph (2) by inserting ''permit or license'' before ''applicant'';

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking ''Promptly after'' and inserting ''Before'';

(ii) by inserting ''permit or license'' before ''applicant''; and

(iii) by inserting ''proposed'' before ''written statement''; and

(B) by striking all after the first sentence and inserting the following: ''The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) by striking ''the Secretary shall provide'' and all that follows through ''with a written statement that—'' and inserting the following: ''the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

''(B) A statement described in this subparagraph—''; and

(5) by adding at the end the following:

''(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be no more than necessary to offset the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

''(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

''(i) must be capable of successful implementation; and

''(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.''.

(c) BIOLOGICAL ASSESSMENTS.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) in the first sentence, by striking ''which is listed'' and all that follows through the end of the sentence and inserting ''that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action.''; and

(2) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''.

(d) MODIFICATION OF AN ENDANGERED SPECIES COMMITTEE PROCESS.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsection (j);

(2) by redesignating the remaining subsections accordingly; and

(3) in subsection (o), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking ''is authorized'' and all that follows through ''of this section'' and inserting ''may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action,''; and

(B) by striking the second sentence.

SEC. 13. EXCEPTIONS TO PROHIBITIONS.

(a) INCIDENTAL TAKE PERMITS.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking ''and'' after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

''(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

''(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

''(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and'';

(2) in subparagraph (B) by striking ''and'' after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

''(v) the term of the permit is reasonable, taking into consideration—

''(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

''(II) the extent to which the plan will enhance the conservation of covered species;

''(III) the adequacy of information underlying the plan;

''(IV) the length of time necessary to implement and achieve the benefits of the plan; and

''(V) the scope of the plan's adaptive management strategy; and''; and

(3) by striking subparagraph (C) and inserting the following:

''(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be no more than necessary to offset the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i).

''(4)(A) If the holder of a permit issued under this subsection for other than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

''(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

''(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water, or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

''(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

''(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

''(F) If the Secretary determines that a conservation plan under this subsection reasonably can be expected to fail to achieve the goals specified under paragraph (2)(A)(iv), the Secretary shall, at the Secretary's expense, implement remedial conservation measures. Nothing in the preceding sentence shall be construed to allow the Secretary to require the holder of a permit issued under this subsection to undertake any additional measures without the consent of the holder.

''(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

''(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

''(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

''(ii) the Secretary provides 60 days notice of revocation to the permittee; and

''(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.''.

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking ''thirty'' each place it appears and inserting ''45''.

(c) EXPERIMENTAL POPULATIONS.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking ''For purposes'' and all that follows through the end of the paragraph and inserting the following: ''For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.'';

(2) in paragraph (2)(B), by striking ''information'' and inserting ''scientific data''; and

(3) in paragraph (2)(C)(i), by striking ''listed'' and inserting ''determined to be an endangered species or a threatened species''.

(d) WRITTEN DETERMINATION OF COMPLIANCE.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) WRITTEN DETERMINATION OF COMPLIANCE.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination as to whether a proposed use of the owner's property that is lawful under State and local law will require a permit under section 10(a), by submitting a written description of the proposed action to the Secretary by certified mail.

''(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

''(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

''(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

''(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

''(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

''(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will require a permit under section 10(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

''(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

''(6) At the end of each fiscal year, the Secretary shall transmit a report to the Congress listing the requests to which the Secretary did not provide a requestor a timely response under paragraph (5)(A) or (B), the status of those requests at the time of transmittal of the report, and an explanation for the circumstances that prevented the Secretary from providing any such requestor with a timely response.

''(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.''.

(e) NATIONAL SECURITY EXEMPTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(l) NATIONAL SECURITY.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if the President finds that such exemption is necessary for national security.''.

SEC. 14. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

''PRIVATE PROPERTY CONSERVATION PROGRAM

''SEC. 13. (a) ESTABLISHMENT OF PROGRAM.—

''(1) REQUIREMENT.—The Secretary shall establish a Private Property Conservation Program to improve the habitat and promote the conservation, on private lands, of endangered species, threatened species, and species that are candidates to be determined to be endangered species or threatened species.

''(2) AGREEMENTS AUTHORIZED.—The Secretary may enter into an agreement with a private property owner under which the Secretary shall, subject to appropriations, make annual or other payments to the person to implement the agreement.

''(3) CONTENTS.—Any agreement the Secretary enters into under this section shall—

''(A) specify a management plan that the private property owner shall commit to implement on the property of the private property owner, including—

''(i) an identification of the species and habitat covered by the plan;

''(ii) a finding by the Secretary that the land to which the agreement applies is appropriate for the species and habitat covered by the agreement;

''(iii) a description of the activities the private property owner shall undertake to conserve the species and to create, restore, enhance, or protect habitat; and

''(iv) a description of the existing or future economic activities on the land to which the agreement applies that are compatible with the goals of the program.

''(B) specify the terms of the agreement, including—

''(i) the terms of payment to be provided by the Secretary to the private property owner;

''(ii) a description of any technical assistance the Secretary will provide to the private property owner to implement the management plan;

''(iii) the terms and conditions under which the Secretary and the private property owner mutually agree that the agreement may be modified or terminated;

''(iv) acts or omissions by the Secretary or the private property owner that shall be considered violations of the agreement, and procedures under which notice and an opportunity to remedy any violation by the private property owner shall be given;

''(v) a finding by the Secretary that the private property owner owns the land to which the agreement applies or has sufficient control over the use of such land to ensure implementation of agreement; and

''(vi) such other duties of the Secretary and of the private property owner as are appropriate.

''(4) COST SHARE.—The Secretary may provide up to 70 percent of the cost to implement the management plan under the terms of the agreement.

''(5) PRIORITY.—In entering into agreements under this section, the Secretary shall give priority to those agreements—

''(A) that apply to areas identified under section 5(c)(1)(A)(iv); and

''(B) reasonably can be expected to achieve the greatest benefit for the conservation of the species covered by the agreement relative to the total amount of funds to be expended to implement the agreement.

''(6) TECHNICAL ASSISTANCE.—Any State agency, local government, nonprofit organization, or federally recognized Indian tribe may provide technical assistance to a private property owner in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species.

''(7) TRANSFER OF PROPERTY.—Upon any conveyance or other transfer of interest in land that is subject to an agreement under this section

''(A) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by not later than 30 days after the date of the conveyance or other transfer;

''(B) the agreement shall terminate if the agreement does not continue in effect under subparagraph (A); and

''(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this section.

''(8) MODEL FORM OF AGREEMENT.—Not later than 1 year after the date of the enactment of the Threatened and Endangered Species Act of 2005, the Secretary shall establish a model form of agreement that a person may enter into with the Secretary under this section.

''(9) VOLUNTARY PROGRAM.—

''(A) AGREEMENTS MAY NOT BE REQUIRED.—The Secretary, or any other Federal official, may not require a person to enter into an agreement under this section as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this or any other law.

''(B) REQUIREMENTS UNDER LAWS AND PERMITS.—None of the activities otherwise required by law or by the terms of any permit may be included in any agreement under this section.

''(10) RELATIONSHIP TO HABITAT CONSERVATION PLANS.—The Secretary may consider an agreement under this subsection that applies to an endangered species or threatened species in determining the adequacy of a conservation plan for the purpose of section 10(a)(2).

''(b) TECHNICAL ASSISTANCE PROGRAM FOR SMALL LANDOWNERS.—

''(1) IN GENERAL.—The Secretary shall establish a program to offer technical assistance to owners of private property seeking guidance on the conservation of endangered species or threatened species, or species that are candidates for being determined to be endangered species or threatened species.

''(2) ALLOWABLE ACTIVITIES.—Upon request, the Secretary may provide technical assistance to an owner of private property for the purpose of—

''(A) helping to prepare and implement a conservation agreement under subsection (a);

''(B) training the managers of private property in best practices to conserve species and create, restore, enhance, and protect habitat for species;

''(C) helping to prepare an application for a permit and a conservation plan under section 10(a); and

''(D) any other purpose the Secretary determines is appropriate to meet the goals of the program under subsection (a).

''(3) PRIORITY.—The Secretary shall give priority in offers of technical assistance to owners of private property that the Secretary determines cannot reasonably be expected to afford adequate technical assistance.

''(4) FUNDING FOR PROGRAM.—For any year for which funds are appropriated to carry out this Act, 10 percent shall be for carrying out this subsection, unless the Secretary determines for any fiscal year that a smaller percentage is sufficient and submits a report to the Congress containing the percentage and an explanation of the basis for the determination.''.

SEC. 15. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

''PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

''SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

''(1) each list published under section 4(c)(1);

''(2) all final and proposed regulations and determinations under section 4;

''(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

''(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

''(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

''(6) to the extent practicable, data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.''.

SEC. 16. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

''ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

''SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains

an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

''(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

''(1) expenditures of Federal funds on a species-by-species basis, and expenditures of Federal funds that are not attributable to a specific species;

''(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

''(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

''(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

''(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

''(2) attest to the accuracy of such data.''.

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

''(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).''.

SEC. 17. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

''REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

''SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

''(b) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

''(c) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.''.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

''(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

''(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

''(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.''.

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking ''section 15'' and inserting ''section 18''.

SEC. 19. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking ''any endangered species or threatened species listed'' and inserting ''any species determined to be an endangered species or a threatened species''; and

(2) in subsection (b) in paragraph (1), by striking ''endangered species and threatened species listed'' and inserting ''species determined to be endangered species and threatened species''.

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking ''of the Interior (hereinafter in this section referred to as the 'Secretary')'';

(2) in subsection (d), by striking ''Merchant Marine and Fisheries'' and inserting ''Resources''; and

(3) in subsection (e)—

(A) in paragraph (1), by striking ''of the Interior (hereinafter in this subsection referred to as the 'Secretary')''; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of fish or wildlife determined to be an endangered species under section 4'';

(B) in paragraph (1)(G), by striking ''threatened species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting ''species of fish or wildlife determined to be a threatened species under section 4'';

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking ''of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of plants determined to be an endangered species under section 4''; and

(D) in paragraph (2)(E), by striking ''listed pursuant to section 4 of this Act'' and inserting ''determined to be a threatened species under section 4'';

(2) in subsection (b)—

(A) by striking ''(1)'' before ''SPECIES'' and inserting ''(1)'' before the first sentence;

(B) in paragraph (1), in the first sentence, by striking ''adding such'' and all that follows through '': *Provided*, That'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if''; and

(C) in paragraph (1), in the second sentence, by striking ''adding such'' and all that follows through ''this Act'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4'';

(3) in subsection (c)(2)(A), by striking ''an endangered species listed'' and inserting ''a species determined to be an endangered species'';

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: ''(i) are not determined to be endangered species or threatened species under section 4, and'';

(5) in subsection (e), by striking clause (1) and inserting the following: ''(1) are not determined to be endangered species or threatened species under section 4, and''; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: ''(A) are not determined to be endangered species or threatened species under section 4, and''; and

(B) by striking ''Secretary of the Interior'' each place it appears and inserting ''Secretary''.

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''an endangered species'' and all that follows through ''section 4 of this Act'' and inserting ''an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4'';

(B) by striking ''section 9(a) of this Act'' and inserting ''section 9(a)''; and

(C) by striking ''fish or wildlife listed by the Secretary as endangered'' and inserting ''fish or wildlife determined to be an endangered species or threatened species by the Secretary''; and

(2) in paragraph (2)—

(A) by inserting ''or a threatened species'' after ''endangered species'' each place it appears; and

(B) in subparagraph (B), by striking ''listed species'' and inserting ''endangered species or threatened species''.

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting ''or threatened species'' after ''endangered species''; and

(2) by striking ''of this Act''.

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after ''(f)'' the following: ''PRE-ACT PARTS AND SCRIMSHAW.—''; and

(2) in paragraph (2), by striking ''of this Act'' each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after ''(g)'' the following: ''BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—''.

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking ''endangered species or threatened species listed'' and inserting ''species determined to be an endangered species or a threatened species''.

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking ''Such persons'' and inserting ''Such a person''.

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) ''SECRETARY'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the Secretary'':

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) ''PRESIDENT'' FOR ''HE''.—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking ''he'' and inserting ''the President''.

(3) ''SECRETARY OF THE INTERIOR'' FOR ''HE''.—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by striking ''he'' and inserting ''the Secretary of the Interior''.

(4) ''PERSON'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the person'':

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) ''DEFENDANT'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the defendant''.

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO ''HIM''.—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking ''him or the Secretary of Commerce'' each place it appears and inserting ''the Secretary''.

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking ''him'' and inserting ''the Secretary''.

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking ''him'' and inserting ''the Secretary''.

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking ''him'' and inserting ''the Secretary''.

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking ''him'' and inserting ''the Secretary''.

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking ''him'' each place it appears and inserting ''such person''.

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking ''him'' and inserting ''the Secretary''.

(7) REFERENCES TO ''HIMSELF OR HERSELF''.—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking ''himself or herself'' each place it appears and inserting ''the defendant''.

(8) REFERENCES TO ''HIS''.—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking ''his'' and inserting ''the''.

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking ''his'' and inserting ''the Secretary's''; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking ''his periodic review'' and inserting ''periodic review by the Secretary''.

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking ''his'' and inserting ''the applicant's''.

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking ''his'' and inserting ''the Secretary's''.

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking ''his'' each place it appears and inserting ''such person's''.

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking ''his'' and inserting ''the Secretary's''.

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking ''his'' and inserting ''the''.

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking ''his'' and inserting ''the Secretary's'';

(ii) in subsections (a)(3) and (b)(3) by striking ''his or her'' each place it appears and inserting ''the defendant's'';

(iii) in subsection (d) by striking ''his'' and inserting ''the officer's or employee's'';

(iv) in subsection (e)(3) in the second sentence by striking ''his'' and inserting ''the person's''; and

(v) in subsection (g)(1) by striking ''his'' and inserting ''the person's''.

SEC. 20. ESTABLISHMENT OF SCIENCE ADVISORY BOARD.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended by adding at the end the following:

''SCIENCE ADVISORY BOARD

''SEC. 19.

''(a) IN GENERAL.—Within 12 months after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary of Interior, through the Director of the United States Fish and Wildlife Service, shall establish a Science Advisory Board (in this section referred to as the 'Board') to provide such scientific advice as may be requested by the Secretary to assist in the evaluation of the use of science in implementing this Act, including in the development of policies and procedures pertaining to the use of scientific information.

''(b) COMPOSITION.—The Board shall each consist of 9 members appointed by the Secretary of the Interior from a list of nominees recommended by the National Academy of Sciences, utilizing a system of staggered 3-year terms of appointment. One member shall be elected by the members of the Board as its Chairman. Members of the Board shall be selected on the basis of their professional qualifications in the areas of ecology, fish and wildlife management, plant ecology, or natural resource conservation. Members of the Board shall not hold another office or position in the Federal Government. If a vacancy occurs on the Board due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Secretary from a group of at least 4 nominees recommended by the National Academy of Sciences. The Secretary may extend the term of a Board member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Secretary shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. The Secretary shall publish in the Federal Register the name, business address, and professional affiliations of each appointee.

''(c) COMPENSATION.—Each member of the Board shall receive per diem compensation at a rate not in excess of that fixed for GS–15 of the General Schedule as may be determined by the Secretary of the Interior.

''(d) STAFF.—Upon the recommendation of the Board, the Secretary of the Interior shall make available employees as necessary to exercise and fulfill the Board's responsibilities. ''.

SEC. 21. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

''Sec. 5. Recovery plans and land acquisition.''

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

''Sec. 13. Private property conservation program.

''Sec. 14. Public accessibility and accountability.

''Sec. 15. Marine Mammal Protection Act of 1972.

''Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.

''Sec. 17. Reimbursement for depredation of livestock by reintroduced species.

''Sec. 18. Authorization of appropriations.

''Sec. 19. Science Advisory Board.''.

The Acting CHAIRMAN. Pursuant to House Resolution 470, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. POMBO) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

The bipartisan substitute that we have introduced here in fact goes to fundamental and basic changes in the Endangered Species Act to both provide for the better protection of the species, but also to make this Act far more workable, far more definite in terms of the interests of landowners, the impacts and the timelines and the guidelines that will be offered to them to make this Act work. That is the spirit of the reform of the Endangered Species Act. That is not what is taking place in this underlying bill.

In the manager's amendment that was just introduced, it has been suggested now for the last several days that there is a recovery plan in the underlying bill. The manager's amendment, in fact, strikes that recovery plan in terms of its basic, fundamental necessity for the recovery of those species. So the difference between the substitute and the underlying bill is in the substitute, you will, in fact, have enforceable recovery plans where other actions have to be measured against the impacts on those recovery plans, the habitat that is developed under those recovery plans to make sure that the recovery of the species continues. That is no longer a requirement. That is no longer a requirement in the substitute bill.

That is why I would hope that people would understand that if you really want to provide for the reform, if you really want to provide for the reform of the Endangered Species Act, if you really want to make this Act more user-friendly, if you really want to have it based upon science, if you want to have the recovery based upon science, you want those determinations made with the best science, then that is what the substitute does.

There has been a bait and switch here. Up until just recently, with the adoption of the manager's amendment, you could argue that that is what the underlying bill does. But, with the new language that is introduced in the manager's amendment, that is no longer the case, and I would hope that people would understand you will not be able to provide for the kind of recovery that this Nation expects, that our constituents expect, and most Members of Congress expect with that legislation now with the manager's amendment.

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

Mr. POMBO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I rise today in opposition to the substitute being offered for a number of reasons.

The substitute basically takes the Pombo bill and cuts out everything that is important to my constituents, the small farmers and ranchers of the Central Valley who are being driven out of our valley through arbitrary and capricious regulatory burdens. It is my constituents who are the ones that are begging me to help them reform the Endangered Species Act, and I think this substitute leaves them behind and brings our efforts back to square one.

What I cannot support is the removal of 2 provisions that I find absolutely critical to any reforms to the ESA: mandatory landowner notification, and the conservation compensation plans for effective landowners.

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The first issue, the landowner notification is just a no-brainer issue. Landowners deserve to know what they can and cannot do with their property and the service should be responsible for telling them.

Many of the opponents of this provision claim that landowners can simply go to court and get a decision but in reality, they cannot because the court has ruled in previous cases that unless the service tells them no directly they have no standing in court. This provision is crucial, especially to the little guy who does not have millions and millions of dollars to higher lawyers, biologists and surveyors needed to take on the service.

Mr. Chairman, these little guys deserve an answer just like the big guys do. I understand that there is a provision in the substitute that attempts to address this issue with a similar 180 day timeline. Unfortunately, there is no enforcement behind the language other than a report to Congress, and we all know what we do with reports to Congress.

The service is under a number of other time lines under ESA such as a time line for completing political opinions which they also choose to ignore. The substitute provisions would do exactly the same thing and bring us back to square one. The second is the strong private property rights section that are good in H.R. 3824. They did not seem to make the cut in the substitute. It is not a sweeping entitlement program as some would have you believe. It is a program that will fairly compensate landowners and will provide species with conservation mitigation measures that would otherwise go unprotected.

I do have to say that I am pleased that my colleagues chose to include a number of provisions from the underlying bill in the substitute. The fact that the substitute includes the same repeal of critical habit speaks volumes for the overall consensus that this Act needs to be changed and updated to reflect the evolving circumstances on the ground that have impeded the accurate critical habit designations.

But the deleted provisions from H.R. 3824 and the new definition of jeopardy, under which, frankly, I am not sure if I could mow my own lawn, will do nothing to relieve the conflict that currently exists under that ESA.

It will do nothing more than the underlying bill to recovery species, and this will simply put us back to square one.

Mr. Chairman, I have one final comment. I must correct the record. I would ask that the gentleman from Oregon (Mr. WALDEN) place back up the slide that he had from the bill which outlines that under the Pombo bill, actually, it is here, under the Pombo bill you can only become compensated for what is an allowable use for what is the current State or local regulation, under the current zoning use.

So a farmer who is plowing his field and trying to grow a crop every day, if he is denied the use of that property, he can only be compensated for the loss of his farming income and he can not claim that it could be a high rise hotel in its place. He only gets compensated for what he was currently doing on the property, and that is just simply an erroneous statement to say anything else.

Mr. Chairman, we need to defeat this substitute. We need to pass the underlying measure.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 15 minutes to the gentleman from New York (Mr. BOEHLERT) and ask unanimous consent that he be permitted to control that time.

The Acting CHAIRMAN (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

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

Mr. Chairman, I rise in strong support of the substitute. I want to thank all of our co-sponsors for their support, the gentleman from Michigan (Mr. DINGELL), the gentleman from Washington (Mr. DICKS), the gentleman from New Jersey (Mr. SAXTON), the gentlewoman from California (Mrs. TAUSCHER), the gentleman from Illinois (Mr. KIRK), the gentlewoman from California (Ms. MATSUI), the gentleman from Illinois (Mr. JOHNSON), and the gentleman from New Hampshire (Mr. BASS).

That is a pretty good sampling of Congressional centrists because there is a moderate, targeted solution. Our substitute truly reforms the Endangered Species Act without endangering any species or the American taxpayer. And that is where it differs from H.R. 3824.

But before I describe the differences, I want to emphasize the similarities. Both the bill and the substitute eliminate the current requirements for setting aside critical habitat and rely instead on recovery plans to save endangered and threatened species. They are identical. Both the bill and the substitute offer new financial incentives and legal protections to landowners to save species. Both the bill and the substitute require greater involvement of States in decisionmaking involving species. Both the bill and the substitute ensure that the public will have greater information about and a greater role in the decisionmaking.

In fact, while it is hard to quantify, I would guess about 80 to 90 percent of the language in the substitute is identical to the base bill. That is because we developed the substitute by reading through the base bill, once we could seize a copy, and by incorporating into our substitute every word of H.R. 3824 that we possibly could.

What we could not accept was language weakening the Act by, for example, making recovery plans unenforceable, sit on a shelf, gather dust or making it too easy for the Federal Government to take actions that would harm species. And most of all what we could not accept was the new mandatory spending required by this bill which would open the federal purse to developers while eliminating basic taxpayer protections.

I laid out my specific concerns for that provision during the general debate. I urge support for the substitute and opposition to H.R. 3824 as presented.

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

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

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Chairman, I rise in strong support of the substitute. It is bipartisan. It is supported by Members of Congress from every part of the country. It is not only a unique and valuable bipartisan piece of legislation, but it is one that will work.

Like the underlying bill, the substitute would repeal the current requirement that the Secretary designate critical habitat for endangered fish, wildlife and plants, before formulating a plan for species recovery. In order, however, to maintain a strong ESA, the substitute gives a strong definition of what is meant to jeopardize continued existence of the species.

Science is the core principle of ESA and we direct the Secretary to issue, and regularly revise, guidance on the acceptable scientific measures. The substitute also creates a Science Advisory Board to peer-review controversial decisions and offer other assistance when necessary.

The substitute is going to provide a helping hand to landowners; dedicated funding for technical assistance to private property owners; a conservation grants program for landowners who help conserve the species on or near

their property; assurances that private citizens can get timely answers from the Fish and Wildlife Service; and reporting requirements so that we know how many applications are really going unanswered, and most importantly, why.

The substitute directs the Federal Government to work with the States on a far broader and more cooperative manner than either current law or the Committee on Resources bill.

The substitute directs the Secretary to first determine whether public lands are sufficient to protect and save the species; if we could protect the species, and save the species in our public lands, in our national forests, our national BLM lands, and in our parks and wildlife refuges, we should do so without placing the burden on private landowners.

Mr. Chairman, this amendment represents a broad bipartisan and fiscally responsible effort to move this process forward in a manner that can not only get an overwhelming vote of support in the House, but which can move on to the President's desk for signature in the same manner as the original Act.

I urge my colleagues to support the substitute, and I say that it will be not only a successful undertaking, but one which will be much more in the interests of the landowners and of the species that we are trying to protect and preserve.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chairman, I appreciate the chairman not only yielding me time but, more especially, I appreciate all the work that he has done in this. We heard over and over in the hearings that Democrats really appreciated the way in which the gentleman reached out and started from scratch and negotiated with them. Everything was honest, open, above board and that the gentleman's example was one to be emulated by people that wanted bipartisanship.

Of course, we get to the floor and I am hearing some different things now. But nonetheless I also want to thank those Democrats who, with an open mind and with a regard for fairness, have assisted the chairman in trying to put together a good bill.

Now, it seems to me what this comes down to is a couple of differing philosophies here. On the one hand, you have a philosophy that says private property ownership rights are important and on the other says King George, before we had the revolution, did not have such a bad system. If you were a suck-up to the king, if you paid homage, kind of like the Kelo decision, you were the better friend of the government, then the government was going to treat you good. Never mind your private property rights. We will tell you how you can use your property. We will tell you what you can be compensated for and how and when.

Now, under the substitute amendment, it is pretty clear you do not get an honest answer from the government. Do my private property rights violate or infringe upon some endangered species? Will it amount to an inappropriate use?

Well, maybe it will and maybe it will not. We do not have to give you an answer, but you will have to buy a permit and then under the bill, the chairman has come up with you get a straight answer and you get it quickly. And if you do not get it within 180 days, then you have got your answer as a matter of law.

Under this substitute, all property owners can find out is if they need to be having a habitat conservation plan and if they do, well, gee, the government will help you fill out the application in begging to see what you can do with your own property. We give you a straight answer yes or no under the original bill, and that is how it should be.

The substitute amendment is going to stick the private property owners with the fees. And, boy, I tell you what, when I hear this word ''entitlement'' as if it is going to somebody that is not entitled to something. I tell you, entitlement has a different connotation here. But under this bill, under the original bill it is not an entitlement the way most people see it. If you own property and it is taken away from you, you cannot use it the way you want to because some Federal entity says you cannot. By golly, under our system of law, the way our Constitution is written, you ought to be compensated for it. That is America.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. GILCHREST), a valued member from the Committee on Resources.

Mr. GILCHREST. Mr. Chairman, I think we are here in some sense, past all the clutter of people articulating their most emotional feelings, is a bill set aside some 30 years ago to have an understanding about how we as Members of Congress, the government, can restore the prodigious bounty of God's creation. How do we understand nature's design? How do we use our intelligence to understand the facts behind how nature sustains itself?

Well, in the real world, well, actually, in the real world which is nature, but in the reality of the human condition, we have a lot of other little things that we have to take into consideration. How do you afford an Endangered Species Act? What do you do about private property rights? Do you get enough science? Is the recovery plan appropriate? Do you deal with farmers that have a problem with reintroduced species on the property eating their sheep or their cows?

All these things have to be taken into consideration so that we create a policy that protects private property rights, that brings individuals on those farms and that landscape into the process and helps pay for their contribution to the process, that brings Federal agencies in so they can view the landscape, not from just one small little fly or tiger beetle or some other particular species, but upon which the landscape that supports that species, supports clean water, supports clean air, supports the whole ecosystem including human beings, including us as a species.

□ 1530

We are not separate from clean water. We are not separate from clean air. We are part of nature's design. We are part of this bounty of God's creation. So how do we clarify all these different perspectives and views based on different things that happen in our districts?

Well, we come up with the best available science. We come up with the best available recovery plan. We come up with the best policy for not only the species but for private property, and we come up with the funds that are appropriate to deal with all these issues.

I would tell my colleagues that I feel strongly this is the best policy change, the best reauthorization plan that we can use to deal with the Endangered Species Act that will deal with nature's design and man's impact on nature's design, which includes private property rights, which includes reimbursements for helping to preserve endangered species, and by the way, in this substitute is a provision to pay those private property individuals.

I urge an ''aye'' vote on the substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank my good friend from California (Mr. GEORGE MILLER) for yielding me the time, and I join him in offering this substitute, because the bill we are considering today, H.R. 3824, will make it less likely that threatened and endangered species will recover; but today we can support this bipartisan substitute which will update and improve the Endangered Species Act.

I reject the notion, Mr. Chairman, that we cannot preserve both our natural environment for future generations while supporting strong economic growth.

Our substitute gives private property owners the opportunity to protect species on our own land while ensuring they will not face additional regulatory burden. Importantly, this substitute actually discourages the use of private land for public purposes. The substitute says if we can protect a species on public land, we should.

In some cases, private property owners will be asked to mitigate for the effects of preserving threatened and endangered species. However, we can and should provide incentives for private property owners who are complying with the law, and the substitute does just that.

The substitute strikes a careful balance between the rights of private

property owners and the preservation of our natural resources.

I encourage my colleagues to join me and a bipartisan group of Members in supporting this reasonable, better substitute and opposing H.R. 3824.

Mr. POMBO. Mr. Chairman, I yield 2½ minutes to the gentleman from South Carolina (Mr. BROWN).

(Mr. BROWN of South Carolina asked and was given permission to revise and extend his remarks.)

Mr. BROWN of South Carolina. Mr. Chairman, in the 32 years that the Endangered Species Act has been in effect, we have learned a lot of lessons over time and seen the areas where it needs some improvement.

I believe that the gentleman from California (Chairman POMBO) and other members of the House Committee on Resources have worked very hard to come up with a piece of legislation that protects property owners' rights and improves the way that we protect and rehabilitate endangered species, and I am proud to be an original cosponsor of this legislation.

Mr. Chairman, one of the most important aspects of H.R. 3824 deals with private property owners' participation in species recovery. I believe in America it is a fundamental right to be able to own property and to be able to enjoy that property.

I visited a country back during the spring that no citizen in that country could own property or they could lease it for 25 years or 99 years; and, Mr. Chairman, I do not believe America wants to return to that fundamental time where we could not own property, we could just live on property owned by somebody else.

I believe taking property that allows somebody an option not to be able to use their property how they intended, property they used their hard-earned money to purchase is fundamentally wrong.

Specifically, H.R. 3824 will provide certainty for private property owners by allowing landowners to request a written determination as to whether their land use activities will violate the take prohibitions of section 9.

It will also compensate private property owners for the fair market value for foregone use of their property where the Secretary has determined that the use of that property would constitute a take under section 9.

I believe we should protect our endangered species but not at the expense of our private landowners.

Mr. Chairman, there is a better way to protect endangered species; and I believe it is H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005.

I encourage my colleagues to vote ''no'' on the Miller substitute amendment and ''yes'' on the final passage of H.R. 3824.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. SAXTON), an informed and valued member of the Committee on Resources.

Mr. SAXTON. Mr. Chairman, I rise in strong support of the bipartisan substitute.

Mr. Chairman, the Endangered Species Act is one of our most farsighted and important conservation laws. For more than 30 years, the Endangered Species Act has sounded the alarm and saved wildlife that we humans have driven toward extinction. Today, we have wolves in Yellowstone, manatees in Florida, and sea otters in California, largely because of the act.

In the southern part of New Jersey, we have bald eagles, timber rattlesnakes, and barred owls because of the protections provided by the Endangered Species Act; and by protecting their habitat, we have protected our own habitat.

I am concerned that the provisions contained in H.R. 3824 would profoundly alter the act and the process. It contains costly, highly problematic, vague new procedures and ill-conceived tradeoffs that will undermine our ability to conserve fish and wildlife for future generations.

Consequently, I join with my colleagues to offer the responsible, bipartisan Miller-Boehlert substitute that reforms the law, answers the concerns of landowners, States, and sportsmen while improving the ability to achieve timely recovery of threatened and endangered fish, wildlife, and plants.

Our amendment provides a creative, workable solution that promises better results for recovering endangered species and reducing burdens on landowners.

The most important tool needed to halt the decline and recover threatened and endangered species is effective habitat protection. H.R. 3824 fails to protect habitat. The bipartisan amendment has strong provisions to do that.

By contrast, our substitute provides a better way of protecting habitat necessary for recovery, with a true focus on recovering species.

There is broad consensus in Congress to reform the Endangered Species Act, Mr. Chairman; but it is vital that in doing so we maintain the integrity of the act and our ability to conserve these species for future generations. The Miller-Boehlert amendment will do just that, and I urge my colleagues to support the substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, the substitute would be a great improvement for the current Endangered Species Act. It would treat landowners much as we do under the Conservation Reserve Program; but the underlying bill would be a disaster for taxpayers, a new entitlement.

The Secretary shall pay no less than fair market value. I guess the Secretary, if they are feeling good that day, could pay more than fair market value with taxpayers' money, borrowed money; and it does not require the historic, usual, or custom use.

Take a piece of remote farm land, propose a huge development on it; it does not have to be proven to be economically viable. You proposed it; you were going to build 5,000 houses; you were going to make $1,000, $2,000, $5,000 on each house. You would have to be compensated for that. You do not have to prove that this is economically viable, and sequential owners would get that right. You then sell it to your next door neighbor; they can make the same claim. They sell it to the guy down the street, they can make the same claim, on and on and on.

What an incredible new, speculative market, helping the housing bubble, I guess; but this is going to kill the taxpayers and the Federal Treasury. You should vote for the substitute. It will improve the Endangered Species Act.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I very much wanted to support the substitute amendment that we are debating this afternoon.

I have the utmost respect for the gentleman from California (Mr. GEORGE MILLER). Both he and I have been afforded the opportunity to spend some time together in the wonderful Sierra Nevada mountains, and I know how much respect and pride he has for America's natural resources. I share it as well.

But there are three areas as it relates to the proposed substitute amendment that I find to be very problematic and important to the constituents that I represent that have had difficulty with this act over the years.

First of all, the definition as it relates to property rights I think is lacking and needs to be worked on in an important way.

Second, as it relates to the discussion of jeopardy to species, it is so vague. How it would be applied to section 7 and other aspects of the measure, I do not believe it is clear and could indicate further need for litigation, which is the current problem and part that we are trying to solve. I just do not believe that the jeopardy definitions under the current proposed substitute amendment could work as they currently are drafted.

Finally, this is very important and I mentioned it in my comments in supporting the bill: there are no clear definitions as it relates to takings for farmers and ranchers, not just in California but throughout the country. Farmers and ranchers, I would maintain, are, in many cases, one of the last bastions of protection for habitat. I mean, think about it. They really want to farm, and they want to be able to maintain their ranches. When we have growth areas throughout the country, like in California, those farms and those ranches are one of the last hedges to urban sprawl and uncontrolled growth. Therefore, having no clear definitions for takings, I think, is critical.

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

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), the minority whip.

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

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me time. The time is insufficient, not only to explain my position, but also the time for consideration of this bill has been insufficient.

Thirty-two years ago, we passed a bill that a Republican President, Richard Nixon, signed to protect and conserve species in danger of extinction. Unfortunately, though, the underlying bill, which has been fast-tracked since its introduction, would substantially undermine the Endangered Species Act. That is what this is about.

For example, this bill would undermine the ability of the responsible Federal agencies to ably perform their oversight roles, and it fails to recognize the importance of sound science to species recovery and restoration.

The bill also creates a fiscally irresponsible, open-ended entitlement program that effectively pays landowners to comply with the law.

In contrast, the bipartisan substitute offered by the gentleman from California (Mr. GEORGE MILLER) has a far more reasoned approach.

It ensures consultation between the Secretary and other Federal agencies with proposed actions that may jeopardize species. It strengthens the definition of what constitutes jeopardy and requires the Secretary to ensure that proposed recovery plans identify and include areas necessary for species survival.

I urge support of the substitute and opposition to the underlying bill.

Mr. Chairman. Thirty-two years ago, Congress passed and a Republican President—Richard Nixon—signed the Endangered Species Act to protect and conserve species in danger of extinction.

Today, there are 1,268 species listed as endangered or threatened in the United States, including 26 in the State of Maryland.

This law is not perfect, but it has been very successful. Roughly 40 percent of listed species have witnessed the stabilization or growth of their populations.

And, less than one percent have been declared extinct since the law's enactment.

The fact is, this law has enabled the very survival of some of our most vulnerable species—including the bald eagle, the gray wolf, the California condor, and the whooping crane.

Unfortunately, though, the underlying bill—which has been fast-tracked since its introduction last week—would substantially undermine the Endangered Species Act.

For example, this bill would undermine the ability of the responsible Federal agencies—the Departments of Commerce and Interior—to ably perform their oversight roles, and it fails to recognize the importance of sound science to species recovery and restoration.

The bill also creates a fiscally irresponsible, open-ended entitlement program that effectively pays landowners to comply with the law.

In contrast, the bipartisan substitute offers a far more reasoned approach.

It ensures consultation between the Secretary and other Federal agencies with proposed actions that may jeopardize species. It strengthens the definition of what constitutes jeopardy and requires the Secretary to ensure that proposed recovery plans identify and include areas necessary for species survival.

The substitute also creates conservation programs that would provide technical and financial assistance to landowners committed to efforts that protect species.

Mr. Chairman, we have a responsibility to protect our environment—as well as the diverse forms of life that share it.

The bipartisan substitute will help us achieve the goal. I urge my colleagues to support it.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLITTLE).

□ 1545

Mr. DOOLITTLE. Mr. Chairman, I rise to oppose the substitute and to support the underlying bill.

Mr. Chairman, it has been represented that this legislation is going to cost billions of dollars potentially, and for that reason we should reject it in the fiscal crisis in which we currently live. I just say to you that the CBO, which makes the estimates on everything we do around here, the official word for the Congress to act, projects that the cost would be small over the 5 years. Indeed, and I quote, ''would likely total less than $10 million.'' That was the CBO cost estimate to H.R. 3824.

Fiscal conservatives like myself and Grover Norquist of Americans For Tax Reform support this important legislation. Nothing could be more conservative or more right than a vote for private property. So please vote ''no'' to Miller-Boehlert and ''yes'' to final passage.

I might also note, as a representative of one of the districts that has vast amounts of property in the mountains and so forth, that a lot of small property owners, people who want to use their property, have that ability compromised by the cloud that is placed over their property once they get word of a threatened or endangered species. The bill of the gentleman from California (Mr. POMBO) makes it certain and provides a process for compensation. Otherwise, a small property owner is faced with a big question mark, I call it a cloud. It is like a cloud on your title and it is not easily resolved. It can cost you many, many thousands of dollars and a great deal of worry.

The Pombo legislation eliminates this terrible burden we place on small property owners. Please vote ''no'' on the Miller-Boehlert amendment and ''yes'' for final passage on the Pombo legislation.

Mr. BOEHLERT. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time and for his tremendous work on this legislation.

I applaud my colleagues here today for offering this amendment in the nature of a substitute. It goes a long way in making meaningful reforms to the Endangered Species Act without hollowing the fundamental goals of America's flagship wildlife conservation efforts. While there have been successes in species recovery since enactment of the 32-year-old Endangered Species Act, most would agree that it is in need of real reform to make it more effective in species recovery, less demanding on some landowners, and less prone to lawsuits and bureaucracy.

However, pushing the problematic and prohibitively expensive H.R. 3824, the Threatened and Endangered Species Recovery Act through the legislative process has left a sour taste in many of our mouths because it removes the enforceable protections for species recovery and creates the entitlement program for private landowners.

At a time when our country is still coping with the cost of the wars in Iraq and Afghanistan, and most recently with Hurricanes Katrina and Rita, one has to wonder why a rewrite of the Endangered Species Act that includes an entitlement program is even a consideration. This substitute will improve the recovery of more species, put back into place needed enforcement of species recovery plans, and it will do all of this and much more without creating an entitlement program.

This bipartisan substitute is a more pragmatic solution, and I urge my colleagues on both sides of the aisle to support it.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. FARR).

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

Mr. FARR. Mr. Chairman, I rise in support of the underlying amendment, because in the middle of the night, the manager's amendment removed the NOAA fisheries provision in the Interior.

Mr. Chairman, I rise in opposition to H.R. 3824, the Threatened and Endangered Species Recovery Act, as it is currently drafted.

Mr. Chairman, once again California leads the Nation: This time it is for the number of listings for threatened and endangered species. California has more than twice the species listed as any other State.

My home on the Central Coast in the 17th district has more habitat where both endangered plants and animals have lived with commercial farming and ranching. The same climate that produces over three billion dollars annually in agriculture farm gate also is home to the tar plant in Santa Cruz and the California condor in Big Sur.

Another example is the Big Sur area of California where you can find redwoods from

northern California growing next to the yucca of southern California.

I recognize the need for some ''tune-ups'' in the ESA, unfortunately, H.R. 3824 takes a meat axe approach when what we need is a scalpel.

The Endangered Species Act is one of America's most important and successful environmental laws. As one of the pillars of environmental law, it has brought public attention to the impact of human activities on our Nation's wildlife that contributes so much beauty and delight to life as well as growing economic development in environmental tourism.

But it also goes beyond that to declare the preservation of such species as the American bald eagle and the California condor, that glide on the thermals along the Big Sur coastline, a national priority.

While opponents of the law complain that it has restored healthy populations of only 16 of the more than 1,800 species on its endangered list, dozens of other species have dramatically increased their populations because of the law's protection.

Without the ESA these species could easily have succumbed to extinction as corporations and developers decided the fate of their habitats.

That's no small accomplishment. What's more, only nine endangered plants and animals have been lost. We cannot forget that robust biodiversity is absolutely necessary to a healthy human environment.

Ninety-eight percent of the species protected under the Endangered Species Act are still alive today, and many are stable or improving. Without the Endangered Species Act, wildlife such as the bald eagle, American alligator, California condor, Florida panther and many other animals that are part of America's natural heritage could have disappeared from the planet years ago. The Endangered Species Act works because it safeguards the places where endangered animals and plants live.

With the recent discovery of the once thought to be extinct Ivory-billed woodpecker in Arkansas and the Mount Diablo Buckwheat in California, I think this is an opportune moment to highlight the success of many of our conservation efforts. For example, in my home State of California, I am especially proud of the conservation and management efforts that have helped significantly restore populations of California condor, the Southern sea otter, the winter run Chinook salmon, the Least Bell's Vireo songbird, the California Brown Pelican, and the California gray whale.

Mr. Chairman, it is fitting that Congress is moving to reauthorize ESA on Sea Otter Awareness Week since the sea otters are a success story in my district. While the Southern Sea Otter still has a long way to go before being delisted, the increased numbers of sea otters along my district shoreline have greatly contributed to our tourism economy. Studies show sea otters draw tourists to my district where they spend money on lodging, restaurants and other merchandise.

The dramatic turnaround realized by the once thought extinct Southern sea otter is a result of two critical protection laws—the ESA and the Marine Mammal Protection Act, the Southern sea otter population grew from less than 100 otters in the 1930's to the present total of 2,800. Scientists maintain that it will take 3,100 otters to make a population stable enough to even consider removing them from the Endangered Species list and many threats remain. As reauthorization of the ESA moves forward this week in the House, I will fight to keep it strong enough to successfully overcome these threats to the Southern sea otter.

Despite success stories, like this we need to be aware that more needs to be done. At this time, more than 1,000 species in the U.S. and abroad, are designated as ''at risk'' for extinction. One small step is to increase awareness about the seriousness of the circumstances facing many of these endangered species and educating the public about these species.

I know the ESA has it's problems and the proponents of this legislation have brought many of those cases to light today.

Any law that has been on the books for as long as the Endangered Species Act will have issues—Some of these issues deal with inadequate funding, and some with the law itself.

I agree we need to tweak and update the current law, to make changes, but we do not need to completely rewrite this critical protection legislation.

Mr. Chairman, I want to use the rest of my time to discuss a specific provision to move the National Oceanic and Atmospheric Administration's ESA responsibilities to the Department of Interior.

This is an awful idea, and it should have been vetted within the Resources committee before being brought to the floor.

As you know, many of our constituents across the country care deeply about, whales, salmon, and sea turtles. Taking ESA responsibilities away from the experts at NOAA, will put these animals at further risk.

Giving jurisdiction of the ocean animals, whose survival is most at risk, to an agency without ocean expertise is ludicrous. Taking ESA responsibilities from NOAA will split jurisdiction on marine animals, creating a management nightmare and further fracturing our marine management.

For example, Pacific salmon will be a management nightmare. Fish in one river that arrive in spring will be managed by the Department of Commerce, while fish that arrive in that same river during fall will be managed by the Department of Interior. To make things more complicated, who will manage these fish when they are all mixed together in the ocean? Will the fishermen have to choose from two sets of fishing regulations, one from the Department of Commerce and the other from the Department of Interior?

As the Pew and US Commissions on Ocean Policy recommended, we need to consolidate our ocean management under one roof, Specifically the National Oceanic and Atmospheric Administration in the Department of Commerce, to be effective. Further splitting our ocean management is only going to create more problems.

Mr. Chairman, let's not send the message that this Congress is more interested in private property development than in the common good of America the beautiful, from sea to shining sea.

The action this House takes today is a step in the long process to reauthorizing the Endangered Species Act. I urge my colleagues not to take the meat axe approach but to support the bipartisan Miller/Boehlert substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I will support the bipartisan substitute amendment by my colleagues, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. BOEHLERT) because it is an honest effort to make it a better alternative that does not include the most egregious parts of the underlying bill.

I would, however, just make one point. I take modest exception to the implication that was made from the other side of the aisle that somehow the Endangered Species Act and environmental legislation had something to do with the tragedy we witnessed unfurl in the Katrina-affected region. The GAO presented a report yesterday saying that the delays in the project, that none of the changes are believed to have had any role in the levee breaches. And, in fact, Corps officials believe that the flooding would have been worse if the original proposed design had been built. That was presented to Congress yesterday by the GAO.

This is contentious enough, Mr. Chairman, so it would be nice if we could stick to the facts and not make implications that somehow the environmental legislation had anything to do with that tragedy. Knowledgeable people understand that in the long run environmental legislation, had it been enforced and applied uniformly, would have made things better.

Mr. Chairman, I submit for the RECORD the GAO report I just referred to.

LAKE PONTCHARTRAIN AND VICINITY HURRICANE PROTECTION PROJECT

WHAT GAO FOUND

Congress first authorized the Lake Pontchartrain and Vicinity, Louisiana Hurricane Protection Project in the Flood Control Act of 1965. The project was to construct a series of control structures, concrete floodwalls, and levees to provide hurricane protection to areas around Lake Pontchartrain. The project, when designed, was expected to take about 13 years to complete and cost about $85 million. Although federally authorized, it was a joint federal, state, and local effort.

The original project designs were developed based on the equivalent of what is now called a fast-moving Category 3 hurricane that might strike the coastal Louisiana region once in 200–300 years. As GAO reported in 1976 and 1982, since the beginning of the project, the Corps has encountered project delays and cost increases due to design changes caused by technical issues, environmental concerns, legal challenges, and local opposition to portions of the project. As a result, in 1982, project costs had grown to $757 million and the expected completion date had slipped to 2008. None of the changes made to the project, however, are believed to have had any role in the levee breaches recently experienced as the alternative design selected was expected to provide the same level of protection. In fact, Corps officials believe that flooding would have been worse if the original proposed design had been built. When Katrina struck, the project, including about 125 miles of levees, was estimated to be from 60–90 percent complete in different areas with an estimated completion date for the whole project of 2015. The floodwalls along the drainage canals that were breached were complete when the hurricane hit.

The current estimated cost of construction for the completed project is $738 million with the federal share being $528 million and the local share $210 million. Federal allocations for the project were $458 million as of the enactment of the fiscal year 2005 federal appropriation. This represents 87 percent of the federal government's responsibility of $528 million with about $70 million remaining to complete the project. Over the last 10 fiscal years (1996–2005), federal appropriations have totaled about $128.6 million and Corps reprogramming actions resulted in another $13 million being made available to the project. During that time, appropriations have generally declined from about $15–20 million annually in the earlier years to about $5–7 million in the last three fiscal years. While this may not be unusual given the state of completion of the project, the Corps' project fact sheet from May 2005 noted that the President's budget request for fiscal years 2005 and 2006, and the appropriated amount for fiscal year 2005 were insufficient to fund new construction contracts. The Corps had also stated that it could spend $20 million in fiscal year 2006 on the project if the funds were available. The Corps noted that several levees had settled and needed to be raised to provide the level of protection intended by the design.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Chairman, I appreciate the opportunity to stand here and speak about this particular substitute. As it was brought to the Committee on Rules last night, I noticed that it has been consistently called the ''bipartisan substitute.'' It does have eight cosponsors that are bipartisan. But I would note that the actual bill itself has 95 co-sponsors and it has four times as many Democrats on the bill itself as the so-called ''bipartisan substitute.'' So I would like to speak a bit about the bipartisan bill that is actually before us as well.

I have one of my good constituents, Mr. Child, who bought 500 acres of land and found an endangered species on it. The snail. The problem is not that the snail was on it. The problem is he also had 11 geese, and the Federal Government threatened to sue him at the rate of $50,000 for every snail the geese happened to consume. This meant that the Federal Government went in there and captured all 11 geese, forced them to vomit to find out how many snails were actually consumed by the geese.

This gives us some idea why a small private property owner, as soon as he finds an endangered species, the goal is to get rid of the endangered species. And the problem is not the big guys. The problem is that 90 percent of the habitat for endangered species is on private property. Our goal, if we are really serious about trying to preserve endangered species of all kinds, is to get control and cooperation with small private property owners.

The main bill does that by providing a grant program for the cooperation, whereas the substitute eliminates that provision. It puts us backwards to the same old process of trying to threaten and intimidate, which does not work. That is why the recovery rate is so abysmally low with the Endangered Species Act. In fact, it moves us somewhat backwards by weakening scientific standards and creating potential for more litigation.

We have agencies like the U.S. Fish and Wildlife Service which year after year is bankrupt by rampant litigation. This means they have little money and little funds left for actual recovery of species. What we need to do is to make sure that we are engaging the private property owners so that they assist and work in cooperation with the Federal Government. You cannot do that by supporting both the substitute and the main bill.

Mr. POMBO. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. GALLEGLY), a member of the Committee on Resources.

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

Mr. GALLEGLY. Mr. Chairman, I appreciate the opportunity to stand in strong opposition to the substitute and in strong support of the underlying bill. Unfortunately, I may not be able to stay for the vote because there are fires in my district and my neighborhood is being evacuated.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for his extraordinary leadership on behalf of the American people in terms of the air they breathe, the water they drink, in protecting God's beautiful gift to us, this beautiful legacy that we have in our environment, and I commend the ranking member, the gentleman from West Virginia (Mr. RAHALL), for his leadership as well. He has been a champion as well in this area.

Mr. Chairman, I rise in opposition to this legislation which would critically undermine protections for our Nation's endangered species. I support the bipartisan substitute that the gentleman from New York (Mr. BOEHLERT) is putting forth with the gentleman from California (Mr. GEORGE MILLER), and commend them for this good proposal because it provides common sense proposals to strengthen the Endangered Species Act, and yet give a common sense enforcement to it.

I rise as House Democratic leader, of course, in support of the substitute, but I also rise as a mother and as a grandmother; mother of five and grandmother of five. My husband always says I just like to know how long into a speech it is before you start talking about your grandchildren. But we teach our grandchildren, and I did teach my children when they were little, that everything in nature is connected and that there is a reason, a balance to it all, this beautiful web of life that is nature. Today's bill of course in this debate points out what value we place on that.

With the passage of the first Endangered Species law in 1966 and the modern Endangered Species Act in 1973, Congress made a commitment to future generations of Americans, at that time that would be our children, my grandchildren. We made a commitment to maintain the web of life and preserve the myriad species that form an essential part of our natural heritage. We must keep that commitment for the sake of our children and our grandchildren.

The Endangered Species Act is a safety net for wildlife, fish and plants that are on the brink of extinction. When other environmental laws have not provided enough protection, the Endangered Species Act is there to give endangered species one last chance to survive. Of the 1,800 species protected by the law, only nine species have been declared extinct. An impressive achievement.

Earlier in the debate, I heard the gentleman from Washington (Mr. DICKS) speaking, and I see he is still in the Chamber, and I thank him for his very enlightening presentation about how many species have been saved during the life of this law. That was very inspiring and encouraging. The safety net saved our majestic national symbol, the bald eagle, and the peregrine falcon. It saved the Florida manatee, the grizzly bear, the southern sea otter, sea turtles, and many other animals and plants, all important in the balance of nature.

On the floor of the House, week after week, month after month, the Republican leadership pushes through legislation shredding the safety net for children, for veterans, for the elderly, for the poor, for the sick and the disabled, so it comes as no surprise today that they bring a bill that will shred the safety net for the endangered plants and animals. This is really unfortunate, because, again, it all relates to the balance of nature.

We find these words from the psalms: ''How many are your works, O Lord! In wisdom you made them all; the earth is full of your creatures. There is the sea, vast and spacious, teeming with creatures beyond number, living things both large and small.'' In wisdom God has made them all ''living both things both large and small,'' and in wisdom we should preserve and protect them.

We have yet to learn the roles that many creatures play in the web of life, and we are yet to discover the practical effects many species may bring to humankind. One example in California is the Pacific forest yew. Once considered virtually useless, a trash tree, became extremely valuable as the source for the anti-cancer drug Taxol. Many of us have dear friends or family members whose chances of survival have been increased by the use of Taxol.

The bill we consider today is loaded with provisions that will make it harder to preserve endangered species. It undermines sound science by directing the Secretary of the Interior, a political appointee, to issue regulations

locking in a static definition of specific acceptable scientific data. It repeals all protections from pesticides, it drops the requirement for other Federal agencies to consult with wildlife experts at the Fish and Wildlife Service or the fisheries experts at the National Marine Fisheries Service. It establishes an extraordinarily new entitlement program for developers and speculators that requires taxpayers to pay them unlimited amounts of money, and the list goes on and on.

Reasonable people agree that there are ways to improve the Endangered Species Act. Many people who care very, very much about the environment, about the balance of nature, about the web of life have concerns about the enforcement. I think that is why it is important for Congress to be very clear what our intent is, so that intention of Congress and that clarity of our voices here will give guidance to those who enforce the law so that is the implementation and the execution of it is not in a way that is so risk averse as to be counterproductive.

We can do better than the current law, but it is hard to do worse than the legislation being proposed by the gentleman from California (Mr. POMBO). That is why my colleague, the gentleman from California (Mr. GEORGE MILLER), joined by a group of Members and also the gentleman from New York (Mr. BOEHLERT), taking the lead on the Republican side, have developed a substitute to this bill that gives landowners assistance and incentives to protect endangered species, strengthens the science behind the Endangered Species Act, and requires improved coordination with the States.

□ 1600

I urge my colleagues to strengthen the Endangered Species Act by voting for a bipartisan substitute and opposing the underlying bill, and in doing so, to truly, as Members of Congress, show our children that we mean it when we say that we all know that everything in nature is connected and it is important to maintain the balance, the web of life.

In Isaiah in the Old Testament, we are told that to minister to the needs of God's creation, and that includes our beautiful environment, is an act of worship. To ignore those needs is to dishonor the God who made us.

Let us minister to the needs of God's creation. Let us support the substitute and oppose the underlying bill.

Mr. BOEHLERT. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in support of the Miller-Boehlert substitute amendment because I believe we will not have a world to live in if we continue our neglectful ways.

The Endangered Species Act has been a guiding force for the preservation of species threatened with extinction for over 30 years. It is vitally important that we not alter it in any way that could result in the protection it provides from being compromised.

The Endangered Species Act is working. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the ESA have been prevented from going extinct, and 68 percent are stable or improving; but the recovery plans in place may need 50 years to restore these to relative abundance.

The amendment would prevent the creation of a mandatory entitlement program for private property owners which is likely to be hugely expensive.

The substitute also restores the role of science in the Endangered Species Act. The underlying bill appears to give the opinions of individuals without any scientific expertise equal standing with those of scientists and repeals protections against hazardous pesticides.

I oppose H.R. 3824 and any efforts to weaken the Endangered Species Act. I support the Miller-Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I would like to thank the chairman of the full committee, the gentleman from California (Mr. POMBO). I rise in opposition to the substitute amendment and in support of the underlying bill. I would like to congratulate the gentleman from California (Mr. POMBO) on many, many years of hard work on this issue.

I have to say, I am astonished to be here today. By my count, the number of Democrats who voted for the underlying bill in committee was greater than the number of Democrats who voted against it. The minority leader just told us that reasonable people can agree that the Endangered Species Act can be improved. I think that is the fundamental starting place, and it is nice to be debating the substitute, because we are talking about a fundamentally defective process.

On the other hand, the underlying bill is a good bill. The substitute has some great defects. In the first place, it raises the regulatory bar. It makes it more difficult. In the second place, the substitute does nothing to provide straightforward answers to property owners. In other words, the fundamental problems, which have caused such division in America, are not dealt with in the substitute bill. They do not provide compensation to a landowner.

If you are a landowner and the town or the State or country builds a highway, the land gets condemned and you get paid for the land. We need to have some kind of a compensatory process, and we do not have that in the substitute bill.

The substitute bill replaces the dysfunctional critical habitat concept with something far worse. They talk about lands necessary for recovery. What that is, I do not know that we can figure that out until we have done a lot of litigation and have been through a great deal of pain in America.

The substitute removes the incentives and creates a voluntary program. And a landowner, after he volunteers, could get 70 percent of his costs back for participating in the program. It does not give him any grants or any contractual rights. It does not pay him for the cost. I urge support of the underlying bill and opposition to the substitute amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I rise in support of the substitute amendment. It will significantly improve the species recovery which is an important part of our negotiating process that led us up to this bill on the floor today.

It will assist landowners in their efforts to conserve species. The substitute will also include a statutory definition of jeopardy that will ensure that Federal agency actions do not diminish recovery. That is a very important part of giving up the critical habitat designation, that we have an improved consultation process and an improved definition of what constitutes jeopardy.

Mr. Chairman, I urge strong support of this bipartisan substitute and, again, opposition to the underlying bill.

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

Mr. KIRK. Mr. Chairman, I would respectfully disagree with the minority leader that this bill is not Republicans versus Democrats. This is largely east versus west with western Democrats supporting the underlying bill and eastern Republicans opposing.

For me, I would quote from the House Republican majority Committee on the Budget that warned that the underlying legislation ''creates a new entitlement program.''

This spring, moderates of the Republican Tuesday Group and conservatives of the Republican Study Committee worked together to put forward budget reforms to end deficit spending. The heart of our reform was a prohibition against new entitlement spending. Entitlement spending already makes up two-thirds of all Federal spending. Our deficit, because of Hurricane Katrina and related costs, will top over $500 billion this year; and I do not believe that we can afford a new entitlement program.

I would urge our chairman to reform the provisions in the bill, to keep the spending within the budget, and make it subject to appropriations. The grant portion of this bill that compensates landowners is responsible. The mandated spending portion of the bill is not responsible.

CBO warns that in their score of this bill both costs and litigation will go up under the bill. Following CBO's fiscal advice, I would urge adoption of the more fiscally responsible substitute.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I rise in opposition to the substitute and in favor of the underlying bill.

An amendment offered by the gentleman from California (Mr. RADANOVICH) in committee, which was accepted without objection, will allow local officials to perform vital work needed to prevent the potential threat of catastrophic flooding. I rise in opposition because this needed amendment is stripped out of the substitute.

We know how complex Federal bureaucracy can be, but in times of emergency nothing is more important than human health and safety. My disaster declaration and protection provision in this bill must be preserved.

When critical levee repairs are needed to protect human life, time is of the essence. Appropriate action to repair levees must be done quickly and cannot be delayed by cumbersome paperwork and bureaucracy. The ESA must be made flexible enough to allow timely repair and maintenance of levees before disaster strikes. Any efforts to improve ESA must include this provision which recognizes protecting the public from impending danger must take priority.

The amendment that I offered recognizes that when critical repair, reconstruction, or improvements to levee systems are needed, the Federal Government should not be an impediment to targeted, urgent public safety work that must happen.

The amendment that we offered frees local agencies from lengthy processes only for those projects where critical repairs are needed to avoid the loss of human life due to natural disaster. Current agency regulations only allow for an expedited consultation in a Presidentially declared disaster area for levee repair, but they only allow that after flood waters have topped or broken through levees and devastated the communities that they are designed to protect.

The amendment that we offered in committee is narrowly tailored to give local flood protection officials the same flexibility to make needed repairs; but importantly, it does so before the onset of deadly flooding.

It is ironic that the Fish and Wildlife Service and NOAA Fisheries have recently implemented emergency procedures enabling them to expedite the otherwise lengthy consultation process that has to occur before the reconstruction of levees and other flood protection infrastructure ravaged by Hurricane Katrina. Thank God they did implement these procedures, because time is of the essence.

Remarkably, however, these emergency guidelines are only invoked after disaster strikes. There is no provision under existing law that allows for emergency measures to be taken prior to the onset of danger. The Federal Government will only expedite vital repair work that will protect people from deadly floodwaters if they first suffer the calamity that we are trying to avoid.

My colleague advised in California back in 1990 and 1991, the Corps of Engineers warned the community that their levees needed repair work. It took 6 years. Tragically, right as they got approval, a flood occurred and three people lost their lives. We must not allow this kind of avoidable tragedy to happen again.

The amendment that we offered reflects the commonsense notion that local flood protection districts should not have to haggle with Federal agencies for more than 6 years to repair a levee, particularly when that levee has been designated as posing a potential threat to human life. For that reason, I stand opposed to the substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, reforming the Endangered Species Act is long overdue. Today the House has an opportunity to enact significant improvements to ESA that restore balance and protections to species as well as landowners.

One of the most effective ways to protect species habitat is through development of habitat conservation plans. The bill improves and encourages habitat conservation plans by codifying the no-surprise policy and eliminating unnecessary red tape that required multiple consultations regarding already approved actions.

These important provisions will free up limited government and landowner resources and ultimately improve conservation of species habitat by encouraging more habitat conservation plans.

My district in California is home to a large comprehensive habitat conservation plan both in Riverside and Orange counties. In fact, the West Riverside County Multi-Species Conservation Plan is the largest in the Nation covering over 1 million acres of land. The plan cost tens of millions of dollars to develop, years to put into effect, and will cost upward of $1 billion to implement. Once fully implemented, 500,000 acres in western Riverside County will be set aside for species habitat.

It is our responsibility to ensure when landowners and local authorities undertake an extensive planning like that back in my district, the Federal Government lives up to its part of the agreement. This bill does just that and removes unnecessary regulatory burdens that do nothing to benefit the species.

I just discovered in the Miller-Boehlert substitute that the habitat conservation plans that we put a lot of time in to work out in Southern California may be put at risk. That would be very, very difficult for areas that spent large amounts of money to put this into effect, not to mention time. I want to make sure that we defeat the substitute, and I thank the gentleman from California (Mr. POMBO) for working with me to include language that improves habitat conservation plans.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. MARKEY) for the purpose of a unanimous consent request.

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

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

Mr. Chairman, I rise in support of the Boehlert-Miller substitute and against the underlying bill.

A major factor forcing threatened and endangered species towards extinction is the loss and deterioration of habitat necessary for survival. We cannot expect a species to recover without first ensuring that it has the habitat in which to do so.

The Majority has just presented us with this manager's amendment to the underlying bill that would delete not only the protections and enforceability afforded under the designation of critical habitat but also the broader habitat protection provided by the jeopardy definition.

We have arrived at a situation where the underlying bill will offer no enforceable protection for the habitat that endangered species need to survive, but will only create a blizzard of unenforceable bureaucratic paperwork which, in the words of Shakespeare, would be "full of sound and fury but signifying nothing."

The Boehlert-Miller substitute would retain the enforceable protections for habitat provided under a strong jeopardy definition and I urge its adoption.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, what possible reason is there for taxpayers to have to pay three, four times for the same protection of endangered species?

Under the bill as written, the taxpayer would have to pay a landowner once for the privileges of not building the casino. That landowner could then sell it to his brother. The taxpayer has to pay his brother a second time for the same project. His brother could sell it to his cousin, and the taxpayer would have to pay a third time for the same casino. This is a failure in drafting. Reject this bill.

□ 1615

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, first of all, to respond to my colleague from Washington, a simple deed restriction takes care of that. They do not go through this and pay and pay and pay and pay. They put it in the deed when they cut the deal, and they pay fair and just compensation for taking somebody's property. That would be stupid to do that over and over. They do that in the deed, and that is a restriction that carries with the property.

Let me talk about a couple of the differences between these two plans and why I support the underlying Pombo bill. Among other things, section 10, page 18, they give 3 years, the government, to come up with a recovery plan.

Our plan says 2 years. So if they want to recover species, we say get it done in 2 years with the recovery plan; they say 3.

If my colleagues want to talk about spending, they create a new science board. GS15s, section 20 in the bill, $1 million a year. CBO says we will compensate private property owners to the tune of maybe $6 million in the first 5 years. That is all they score out. This, $1 million a year for bureaucrats, and private property owners are left carrying their own costs. That is not fair and right in America.

So if the Members want bigger bureaucracy, pay GS15s here in Washington, a total of $1 million combined over the year, and they get just as much as we are talking about trying to help out the private property owners.

And if they ask the government for some sort of safe harbor for entering into a habitat conservation program, basically they get back a written determination under our provision that prevents them from being prosecuted, from the government's coming back and double-timing them, saying, yes, go ahead and we will not prosecute if you do everything you said you were going to do. Under the alternative, as I read it, whatever they do, they would have to get an incidental take permit and then they still do not have any kind of protection from the government's coming back again after them.

So what we are trying to do is create cooperative partnerships with private landowners through new conservation programs and give certainty over 10-, 20-, and 30-year periods to recover species and set up recovery programs that would come together in 2 years, not 3, and provide for compensation when somebody loses their farm or a portion thereof just as if a highway ran through it.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CARDOZA), co-author of the underlying bill.

Mr. CARDOZA. Mr. Chairman, I rise at this point to make a clarification and to, again, speak to my opposition to the substitute.

The first clarification is that when the Fish and Wildlife Service compensates an owner for a restriction on his property, it is done through a deed restriction or a fee title. So this claim that subsequent owners can make the same claims against the Fish and Wildlife Service is simply inaccurate. When they buy an easement, they buy a perpetual easement unless the Secretary were to make a mistake, and, simply, that is just not the way we do it in law currently.

The second point, and the main objection that I have to the substitute goes to the fundamental fifth amendment protection under the Constitution that says that when we take someone's property, we compensate them for it. And that is what the Pombo bill does, and that is what the substitute does not do.

I would ask my colleagues to cast an ''aye'' vote on the underlying bill and oppose the substitute.

The Acting CHAIRMAN (Mr. SIMPSON). The Chair advises Members that the gentleman from California (Mr. GEORGE MILLER) has 3½ minutes remaining, the gentleman from New York (Mr. BOEHLERT) has 3 minutes remaining, and the gentleman from California (Mr. POMBO) has 4 minutes remaining.

The Chair would further advise that the order of closing is the gentleman from New York (Mr. BOEHLERT), the gentleman from California (Mr. GEORGE MILLER), and the gentleman from California (Mr. POMBO).

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

This all boils down to a principal difference. There are a number of differences, but a principal difference. The substitute does not have the controversial section 13 in it; the base bill does.

Here is something that could actually happen under section 13. A developer could buy a parcel of land knowing that part of it could not be used because of the presence of endangered species. The developer then could request permission to build, say, a hotel on the property without doing much more than outlining the proposal on the back of an envelope. The developer would not even have to try to get necessary State permits or local zoning variances before submitting a claim.

When the Federal Government says that the hotel could not be built, that developer could get a payment from the government based upon what his appraiser said it was worth without providing much evidence that the project was realistic or serious. Then the developer could propose to build a landfill on the same site and go through the same process again and get money from the government again. Then the developer could propose to build a store on the same site and get money from the government again because the store could not be built.

In the meantime, the developer could proceed with the same project on other portions of the property, make substantial profits on his property, and never have that affect the steady stream of payments coming from the government from what was always known to be a problematic site.

This is no exaggeration, and it shows how right the provision is for abuse. The bill puts the taxpayers at risk. That is why the same concerns that we have expressed to our colleagues on the floor today have been expressed by the administration in the Statement of Administration Policy, which is otherwise supportive of the bill, in part because of the provisions that we also have in our substitute. The Statement of Administration Policy warns: ''The new conservation aid program for private property owners provides little discretion to Federal agencies and could result in a significant budgetary impact . . . The bill would affect direct spending. To sustain the economy's expansion, it is critical to exercise responsible restraint over Federal spending.'' We want to help exercise responsible restraint by eliminating section 13.

Mr. Chairman, there is no doubt about it. The Endangered Species Act has to be revisited. That is the responsible thing to do. The Committee on Resources has put a lot of hard work into and has come up with a product that, in many respects, is just wonderful, necessary. That is why we embrace the product. But section 13 is absolutely, totally unacceptable for a whole lot of very good reasons, and it is unacceptable to the taxpayers of America because, boy, does this impose a burden on them.

I urge support for the substitute. It is responsible. It is bipartisan. It is thoughtful. It eliminates section 13. It provides more opportunity for good science. It emphasizes the need of small property owners, and we want to help them.

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

Mr. GEORGE MILLER of Florida. Mr. Chairman, I yield myself the balance of my time.

I thank the gentleman from New York (Mr. BOEHLERT), the cosponsor of this legislation, and all the rest of the cosponsors for their support of this amendment. I want to thank all of my colleagues who joined in this debate today, and I think that it is important that we adopt this substitute.

Earlier the gentleman from California (Mr. CARDOZA) got up on the floor, and he was upset that somebody had said that the underlying bill would eviscerate the Endangered Species Act. Yesterday, that statement would have been true. He had a right to be upset. But today when the manager's amendment was offered and was accepted, the Endangered Species Act was eviscerated and let me tell you why: Because the bill, prior to that amendment, contained this language: The term to jeopardize the continued existence means, with respect to any agency action, that action reasonably that would be expected to significantly impede directly or indirectly the conservation long-term of the species in the wild. That language was struck in the manager's amendment when you struck on page 4, strike lines 3 through 11 and redesignate.

The point is this, there is now no statutory protection in law if this bill is passed for the protection of this species because there is no standard of jeopardy. That was not true last night, it was not true this morning, but it is true this afternoon. You can shake your head until the cows come home. The fact of the matter is, that is what took place in this amendment. So the evisceration is now complete because there is no standard in the bill for jeopardy.

Ladies and gentlemen, it is important that we accept this amendment,

this bipartisan substitute, because this is our last best chance to hold on to what this Nation holds dear, and that is the protection and the diversity of the species that inhabit this Nation, and the effort that we have made as a Nation to make sure that our actions and governmental actions, and the actions of others, do not destroy and bring to extinction these species.

Those protections that we have provided since the inception of this act when the gentleman from Michigan (Mr. DINGELL) and the gentleman from Wisconsin (Mr. OBEY) and others were here to support it, those protections have served this Nation well. We have a chance today to have a commonsense reform of that effort. Yes, this act should be changed; it is 30 years old, and we are about to do that with this substitute, because we provide the balance for the protection of these species and the protection of the landowners. What we do not do is what they do in the underlying bill; that, if a landowner has a proposal and a notion of how he might want to use his or her land, the Secretary then has to make a determination of whether or not a take might be possible.

No take is required. The Secretary makes no scientific study, makes no scientific investigation, just makes a determination. Does the landowner sue on that? Does the government sue to protect themselves? Then, if the Secretary says so, the landowner is compensated no longer by fair appraisals, because appraisals only bind the Secretary, they do not bind the landowner. Pretty soon, the U.S. Attorney is going to have to go in to protect the treasury of the United States because, as the gentleman from Illinois (Mr. KIRK) pointed out, this is a new entitlement with direct spending. That is why the Bush administration says that it will generate new litigation, further divert agency resources, and have significant budgetary impact, because that is what they have done.

That is why the substitute provides you the means by which to reform, streamline, and make more efficient the Endangered Species Act at the same time, while protecting not only the landowners, but also protecting the taxpayers of this Nation from a raid on their Treasury when, in fact, no take has taken place.

We all share the gentleman from California's concerns and beliefs that, when your land is taken, you should be reimbursed; when your land is not taken, you should not be reimbursed.

I ask support of the Boehlert/Miller substitute.

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

Well, GEORGE, we have come a long ways. We have come a long ways, because, as you know, I have been working on this since I got here, and when I first started, all I heard was there is nothing wrong with the act that a little bit more money would not solve. Here we are today, everybody saying that there is problems with the law and we have to fix it. So we have come a long ways, and I am being attacked for spending more money under the act on the reauthorization.

First of all, I wanted to respond to your comments on jeopardy. We stay with current law. That is what is in the bill, is current law. We stay with current law. We had a different definition in the bill originally, and that caused the administration to say that it would result in new litigation, so we said we will stay with current law; and that eviscerates the act, staying with current law that they have so dutifully defended.

I have heard here today that the underlying bill guts, eviscerates, euthanizes, is unreasonable, and then I get a handout that talks about how much the substitute is like the base bill. When it comes to critical habitat, both bills use identical language. When it comes to providing certainty for landowners, both bills contain identical language. When it comes to providing incentives for landowners, both bills contain identical language, and on and on and on, about how much alike the bills are; and yet they gut, eviscerate, euthanize, and they are unreasonable.

The gentleman from New York (Mr. BOEHLERT) I think is right about this: The real difference between the two bills is how private property rights is protected.

The gentleman from West Virginia (Mr. RAHALL) and I spent months debating the meaning of a word, and we finally came pretty close to getting a bill put together. The substitute represents, I think, a step back in the negotiations in that everything that you wanted that you did not get, you put in the substitute; change the words a little bit so that they really do not mean anything. There is no protection for private property owners. I remember 10 years ago, I introduced a bill on endangered species, and one of the major provisions in that bill was to utilize public lands, and I got ripped over it because 90 percent of the species have their habitat on private land. You cannot just put the focus on public lands. You cannot. But if it is going to work, if we are truly going to put the focus on recovery, if we are truly going to try to bring these species back from the brink and do the responsible thing, private property owners have to be part of the solution.

We hear a lot of horror stories about things that have happened in my district and Mr. CARDOZA's district and Mr. COSTA's district and Mr. BACA's district, in your district, Mr. MILLER.

□ 1630

If you do not do something to protect the property owners, those stories are never going to stop. The act has been a failure in recovering species. Now we can all agree.

When it comes to protecting private property owners, regardless of what all the hot rhetoric is, what the underlying law says is that if you meet State and local zoning laws, if you go through the process of getting that approval, then you have something. If you are a farmer farming your land and they tell you that you cannot farm your land anymore, you can get compensated for agriculture land.

If you are a developer who has gone through the process, gotten your land zoned and they tell you you cannot use it, then that is what you get compensated for. But once land has that restriction on it, whoever buys it cannot come back again and say they want something else, because they know it is restricted.

So this argument is totally out of line and off base. We protect private property owners. That is what leads to recovery. The substitute just does not.

Vote against the substitute, support the base bill, and let us move on with some decent legislation.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. SIMPSON). The Chair would advise all Members that it is improper to walk in front of a Member in the well who has the floor.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today in opposition to the Threatened Endangered Species Act, the so-called "reform" that will dismantle our Nation's most fundamental wildlife protection law and in support of the bipartisan Miller, Boehlert, Dingell, Gilchrest, Dicks, Saxton, Tauscher, Kirk Substitute. I am disappointed at the missed opportunity for the House to strike a real balance in the protection of rare species facing extinction and landowners from future government constraints.

While I agree that the current Endangered Species Act, ESA, needs improvements and updating, the controversial bill before us today does little to improve the current ESA. Among other things, the Threatened and Endangered Species Act would remove the federal protection of critical habitats that are necessary for the recovery of a species. I also find it extremely disturbing that my colleagues are so intent on establishing an entirely new entitlement program to pay landowners for compliance at the taxpayers' expense at the same time they are working so hard to privatize entitlement programs like Medicare and Social Security.

I believe there is more we can do to support the goals of the ESA. That is why I support the bipartisan substitute amendment offered by Representative GEORGE MILLER and Representative SHERWOOD BOEHLERT. This compromise amendment would proactively conserve species using both real science standards and conservation incentives for landowners. This amendment maintains several provisions in the underlying bill, but would, among other things, take a more comprehensive approach to recovery plans and create an advisory board to provide scientific advice to the Interior Department about applying the best science when enforcing endangered species law.

It took decades for many of our Nation's species to reach the point of extinction. It is unrealistic to propose that there will be a quick fix to the recovery of animals and plants facing

decline. For over 30 years, the ESA has been a work in progress. Now is not the time to turn back the clock on wildlife protection.

Environmental preservation is about self-preservation and about the land we are leaving our children. As Members of Congress, as responsible citizens, I urge my colleagues to join me in supporting real reforms to the ESA by supporting the bipartisan substitute amendment and rejecting the underlying bill.

Mr. KIND. Mr. Chairman, the Endangered Species Act remains an enduring testament to the importance the American people place on preserving plant and animal species for future generations. That sentiment was reflected in President Richard Nixon's words during his signing of the Act on December 28, 1973 when he said, "Nothing is more priceless and more worthy of preservation than the rich array of animal life with which our country has been blessed. It is a many-faceted treasure, of value to scholars, scientists, and nature lovers alike, and it forms a vital part of the heritage we all share as Americans."

I am also reminded of the wisdom of my recently passed friend and hero, Senator Gaylord Nelson, who said, "We must recognize that we're all part of a web of life around the world. Anytime you extinguish a species, the consequences are serious." Thankfully today, citizens can see firsthand in every State the progress being made in bringing wildlife back from the brink of extinction.

For example, In Wisconsin, for the first time since its 1991 listing as an endangered species, the winged mapleleaf mussel, a species found only in a small area of the St. Croix River, have been found to be slowly rebuilding their numbers. Another success of the ESA is the Karner blue butterfly. Although 99 percent or more of the Karner blue butterfly's range has been destroyed, Wisconsin helped bring the species back using a conservation plan that takes into account the butterfly's entire life cycle. The State's project, which involves 38 public and private partners, began after the butterfly was listed as endangered in 1992. Lastly, perhaps best known, is that bald eagles are increasing in Wisconsin, where 645 pairs occupied territories in 1997, up from 358 in 1990. In fact, since eagles are relatively numerous in Wisconsin, the State has donated them to other areas from which they have vanished, including to the Nation's Capital—Washington, DC.

I mention these successes because many of the comments made on the floor today cast ESA as an unmitigated failure. I don't believe that is the case at all; and the scientific journal, Ecology Letters, recently published a study of the status of threatened and endangered species that showed more than half on the list for 5 years or more have either stabilized or are improving.

That said, I agree with my friend and colleague, Congressman JOHN DINGELL, author of the original ESA in 1973, that this landmark bill could use an update—that it could be and should be strengthened in ways that cuts bureaucratic red tape, broadens stakeholder participation, and most importantly better facilitates the revival of more threatened and endangered species.

Mr. Chairman, the bipartisan substitute does a substantially better job in these areas. For instance, it is widely agreed the ESA has done a good job in preventing the extinction of many species but it has been less successful in bringing about "the recovery of listed species to levels where protection under the Act is no longer necessary." I believe it is crucial the legislation provides for the development of strong, comprehensive recovery plans within a short period of time after a species is listed as threatened or endangered.

The Boehlert substitute, like the base bill, would repeal the current requirement that the Secretary designate "critical habitat" for endangered fish, wildlife, and plants before formulating a plan for species recovery. But it adds crucial language requiring the Secretary to identify—during a 3-year recovery planning process—lands that are necessary for the conservation of the species—first on public lands and then, if necessary, on private lands.

I also agree that private landowners have been required by ESA to individually shoulder too much of the burden. More than two-thirds of threatened and endangered species reside on private lands where the Endangered Species Act is least effective. It is imperative landowners be regarded as part of the solution and given the tools and incentives necessary to engender their help and support. I believe we should have at least considered expanding the Habitat Conservation Plan Land Acquisition Program in H.R. 3824 which has proven itself effective in reducing conflicts between the conservation of threatened and endangered species and land development and use. That, unfortunately, is not in the base bill.

Instead, H.R. 3824 provides a new, uncapped entitlement program in Section 13 that will only plunge our Nation's finances deeper in the red, and then prohibits common-sense steps that could at least provide some protection to the taxpayer. For example, under H.R. 3824 the government can be forced to pay out repeated claims for different proposals to use the exact same piece of property. These claims don't even need to be backed up by proof of compliance with State or local land use laws. And instead of lessening the number of ESA related lawsuits, even CBO has stated this provision is likely to increase the amount of litigation.

In contrast, the Boehlert substitute would establish a land owner incentive program that would operate much like a Farm Bill conservation program, with 70 percent cost sharing. From EQIP it adds language that would require the Secretary to maximize the conservation benefit for every dollar expended, put Federal money where it will do the most good. A technical assistance program would be established, and the safe harbor regulations would be codified.

Mr. Chairman, I urge my colleagues to support the responsible, bipartisan Boehlert substitute that answers the concerns of landowners, States, and sportsmen, while improving the ability to achieve timely recovery of endangered and threatened fish, wildlife, and plants. Let's mend it in light of past experience and the demands of modern times, but let's do it responsibly—support the substitute.

Mr. BLUMENAUER. Mr. Chairman, I rise in reluctant support of this amendment. I have serious concerns about the changes to the current Endangered Species Act being discussed today, both in the underlying bill and this amendment. I am especially frustrated that both bills repeal the critical habitat provisions of the ESA, which are crucial to the recovery of species. I plan to vote against final passage of any legislation that repeals this important provision.

But I will support the bipartisan substitute amendment by my colleagues Mr. MILLER and Mr. BOEHLERT because it is an honest effort to present an alternative. It does not include the most egregious parts of H.R. 3824 which make a mockery of science and conservation.

The ACTING CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. GEORGE MILLER).

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

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 216, not voting 11, as follows:

[Roll No. 505]

AYES—206

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Petri
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson

Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu
Wynn

NOES—216

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Fattah
Gutierrez
Harman
Hobson
Lee
Paul
Payne
Towns

□ 1653

Ms. GRANGER, Mr. BRADY of Texas, and Mr. ADERHOLT changed their vote from ''aye'' to ''no.''

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

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. SIMPSON, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, pursuant to House Resolution 470, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

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

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

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

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

RECORDED VOTE

Mr. POMBO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 3824 will be followed by 5-minute votes on passage of H.J. Res. 68 and suspending the rules and agreeing to H. Con. Res. 178.

The vote was taken by electronic device, and there were—ayes 229, noes 193, not voting 11, as follows:

[Roll No. 506]

AYES—229

Abercrombie
Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wynn
Young (AK)
Young (FL)

NOES—193

Ackerman
Allen
Andrews
Baird
Baldwin
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Fitzpatrick (PA)
Foley
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)

Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Platts
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Fattah
Gutierrez
Harman
Hobson
Lee
Paul
Payne
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised that two minutes remain in this vote.

□ 1712

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FATTAH. Mr. Speaker, a prior commitment kept me from voting on H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005. If present, I would have voted "yea" for the Democratic amendment offered by MILLER, DINGELL, DICKS, TAUSCHER, BOEHLERT, GILCHREST, and SAXTON. Please let the record reflect that I would voted "nay" on final passage of H.R. 3824.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1778. An act to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

CONTINUING APPROPRIATIONS FISCAL YEAR 2006

The SPEAKER pro tempore. The pending business is the vote on passage of House Joint Resolution 68 on which the yeas and nays are ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 348, nays 65, not voting 20, as follows:

[Roll No. 507]

YEAS—348

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kilpatrick (MI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—65

Baldwin
Blumenauer
Boucher
Brady (PA)
Capps
Capuano
Carson
Clay
Conyers
Costello
Crowley
DeFazio
DeGette
DeLauro
Doyle
Emanuel
Farr
Filner
Ford
Frank (MA)
Green (WI)
Grijalva
Hinchey
Holt
Honda
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Larson (CT)
Lewis (GA)
Markey
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
Meehan
Miller, George
Moore (WI)
Moran (VA)
Nadler
Neal (MA)
Oberstar
Obey
Olver
Pastor
Ryan (OH)
Ryan (WI)
Sanders
Schakowsky
Scott (VA)
Stark
Tierney
Udall (NM)
Velázquez
Waters
Watt
Weiner
Woolsey
Wu

NOT VOTING—20

Berman
Boswell
Brady (TX)
Buyer
Culberson
Cummings
Davis (FL)
Delahunt
English (PA)
Fattah
Gallegly
Gutierrez
Harman
Hobson
Lee
Miller, Gary
Paul
Payne
Petri
Towns

□ 1720

Mr. LARSON of Connecticut and Mr. CROWLEY changed their vote from "yea" to "nay."

Mr. VISCLOSKY and Ms. JACKSON-LEE of Texas changed their vote from "nay" to "yea."

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.

RECOGNIZING THE NEED TO PURSUE RESEARCH INTO CAUSES, TREATMENT AND CURE FOR IDIOPATHIC PULMONARY FIBROSIS

The SPEAKER pro tempore (Mr. THORNBERRY). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 178, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and agree to the concurrent resolution,

H. Con. Res. 178, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 32, as follows:

[Roll No. 508]

YEAS—401

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—32

Ackerman
Berman
Boswell
Cardoza
Culberson
Cummings
Davis (FL)
Delahunt
DeLay
Doolittle
Emerson
Fattah
Gallegly
Gutierrez
Harman
Hobson
Kilpatrick (MI)
Lee
Lofgren, Zoe
Lynch
McNulty
Miller (FL)
Miller, Gary
Miller, George
Paul
Payne
Petri
Ros-Lehtinen
Scott (GA)
Shadegg
Stark
Towns

□ 1730

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, due to a family illness, I was absent from this Chamber today.

I would like the RECORD to show that, had I been present, I would have voted "nay" on rollcall votes Nos. 502 and 506. I would have also voted "yea" on rollcall votes Nos. 503, 505, 507 and 508.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal reasons require my absence from legislative business following 5:10 p.m. today, Thursday, September 29, 2005. Had I been present, I would have voted "aye" on H.J. Res. 68, making continuing appropriations for fiscal year 2006 (rollcall No. 507); and "aye" on H. Con. Res. 178, recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes (rollcall No. 508).

CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes:

CONFERENCE REPORT (H. REPT. 109–241)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2360) ''making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes'', having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $79,409,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That, not more than 180 days from the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives an integrated immigration enforcement strategy to reduce the number of undocumented aliens by ten percent per year based on the most recent United States Census Bureau data.

OFFICE OF SCREENING COORDINATION AND OPERATIONS

For necessary expenses of the Office of Screening Coordination and Operations, $4,000,000.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $168,835,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $19,405,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $297,229,000; of which $75,756,000 shall be available for salaries and expenses; and of which $221,473,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days from the date of enactment of this Act, an expenditure plan for all information technology projects that: (1) are funded by the ''Office of the Chief Information Officer'', or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: Provided further, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 180 days from the date of enactment of this Act, a report that has been approved by the Office of Management and Budget and reviewed by the Government Accountability Office that includes: (1) an enterprise architecture, (2) an Information Technology Human Capital Plan, (3) a capital investment plan for implementing the enterprise architecture, and (4) a description of the information technology capital planning and investment control process.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. et seq.), $255,495,000, to remain available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $83,017,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), $340,000,000, to remain available until expended: Provided, That of the total amount made available under this heading, $159,658,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,826,323,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $163,560,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: Provided further, That of the total amount provided, $10,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives all required reports related to air and marine operations: Provided further, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: Provided further, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every seven days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $456,000,000, to remain available until expended, of which not less than $320,000,000 shall be for the development of the Automated Commercial Environment: Provided, That none of the funds made available under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $400,231,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $270,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $35,000,000 shall be available for the San Diego sector fence; $35,000,000 shall be available for Tucson sector tactical infrastructure; and $26,000,000 shall be available for the Advanced Training Center.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,740 (2,000 for replacement only) police-type vehicles; $3,108,499,000, of which not

to exceed $7,500,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,000,000 may be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed $6,000,000 shall remain available until expended: Provided further, That of the amounts appropriated, $5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a national detention management plan, including the use of regional detention contracts and alternatives to detention.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed $487,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $40,150,000, to remain available until expended: Provided, That none of the funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,546,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,607,386,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $3,605,438,000 shall be for screening operations, of which $175,000,000 shall be available only for procurement of checked baggage explosive detection systems and $45,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $1,001,948,000 shall be for aviation security direction and enforcement presence: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,617,386,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2007: Provided further, That notwithstanding section 44923 of title 49, United States Code, the share of the cost of the Federal Government for a project under any letter of intent shall be 75 percent for any medium or large hub airport and 90 percent for any other airport, and all funding provided by section 44923(h) of title 49 United States Code, or from appropriations authorized under section 44923(i)(1) of title 49 United States Code, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: Provided further, That heads of Federal agencies and commissions shall not be exempt from Federal passenger and baggage screening: Provided further, That reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for these purposes: Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $36,000,000, to remain available until September 30, 2007.

TRANSPORTATION VETTING AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Vetting and Credentialing, $74,996,000, to remain available until September 30, 2007.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $510,483,000, to remain available until September 30, 2007: Provided, That of the funds appropriated under this heading, $5,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives: (1) a plan for optimally deploying explosive detection equipment, either in-line or to replace explosive trace detection machines, at the Nation's airports on a priority basis to enhance security, reduce Transportation Security Administration staffing requirements, and reduce long-term costs; and (2) a detailed expenditure plan for explosive detection systems procurement and installations on an airport-by-airport basis for fiscal year 2006: Provided further, That these plans shall be submitted no later than 60 days from the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $686,200,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note); and recreation and welfare; $5,492,331,000, of which $1,200,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

In addition, of the funds appropriated under this heading in Public Law 108–11 (117 Stat. 583), $15,103,569 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $12,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $119,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,141,800,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $18,500,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $20,000,000 shall be available until September 30, 2010, to increase aviation capability; of which $65,000,000 shall be available until September 30, 2008, for other equipment; of which $31,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which $73,500,000 shall be available for personnel compensation and benefits and related costs; and of which $933,100,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or

lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2007 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; an explanation of why many assets that are elements of the Integrated Deepwater System are not accounted for within the Deepwater appropriation under this heading; a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000 within the Deepwater program; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets; and the earned value management system gold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $15,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $17,750,000, to remain available until expended, of which $2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,208,310,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,389,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,500,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2007: Provided further, That of the total amount appropriated, not less than $2,500,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until September 30, 2007: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,699,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, $16,079,000: Provided, That not to exceed $7,000 shall be for official reception and representation expenses.

OFFICE FOR DOMESTIC PREPAREDNESS

SALARIES AND EXPENSES

For necessary expenses for the Office for Domestic Preparedness, $5,000,000.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,501,300,000, which shall be allocated as follows:

(1) $550,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(2) $1,155,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $765,000,000 shall be for use in high-threat, high-density urban areas: Provided, That $25,000,000 shall be available until expended for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such Code) determined by the Secretary to be at high-risk of international terrorist attack, and that these determinations shall not be delegated to any Federal, State, or local government official: Provided further, That the Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives the threat to each designated tax exempt grantee at least 3 full business days in advance of the announcement of any grant award;

(B) $175,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on risk and threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(C) $5,000,000 shall be for trucking industry security grants;

(D) $10,000,000 shall be for intercity bus security grants;

(E) $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

Provided, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $346,300,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the proceeding proviso shall not apply to

grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: Provided further, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office for Domestic Preparedness certified training, as needed: Provided further, That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office for Domestic Preparedness shall issue the final National Preparedness Goal no later than December 31, 2005; and no funds provided under paragraphs (1) and (2)(A) shall be awarded to States that have not submitted to the Office for Domestic Preparedness an updated State homeland strategy based on the interim National Preparedness Goal, dated March 31, 2005: Provided further, That the Government Accountability Office shall review the validity of the threat and risk factors used by the Secretary for the purposes of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds, and report to the Committees on Appropriations of the Senate and the House of Representatives on the findings of its review by November 17, 2005: Provided further, That within seven days from the date of enactment of this Act, the Secretary shall provide the Government Accountability Office with the threat and risk methodology and factors that will be used to allocate discretionary grants funded under this heading.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $655,000,000, of which $545,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $110,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, to remain available until September 30, 2007: Provided, That not to exceed 5 percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $185,000,000: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by 15 U.S.C. 2201 et seq. and 6 U.S.C. 101 et seq., $44,948,000.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $625,499,000, of which $542,157,000 shall remain available until September 30, 2007.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $2,000,000, to remain available until expended: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations, $221,240,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities, $204,058,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount made available under this heading, $20,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,770,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; not to exceed $40,000,000 for financial assistance under section 1361A of such Act to States and communities for taking actions under such section with respect to severe repetitive loss properties, to remain available until expended; not to exceed $10,000,000 for mitigation actions under section 1323 of such Act; and not to exceed $99,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to $40,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: Provided, That in fiscal year 2006, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $660,148,000 for commissions and taxes of agents; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $40,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $40,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $50,000,000, to remain available until expended: Provided, That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: Provided further, That total administrative costs shall not exceed 3 percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $115,000,000: Provided, That the Director of United States Citizenship and

Immigration Services shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on its information technology transformation efforts and how these efforts align with the enterprise architecture standards of the Department of Homeland Security within 90 days from the date of enactment of this Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $194,000,000, of which up to $42,119,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $88,358,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $81,099,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $1,420,997,000, to remain available until expended: Provided, That of the total amount provided under this heading, $23,000,000 is available to select a site for the National Bio and Agrodefense Facility and perform other pre-construction activities to establish research capabilities to protect animal and public health from high consequence animal and zoonotic diseases in support of Homeland Security Presidential Directives 9 and 10: Provided further, That of the amount provided under this heading, $318,014,000 shall be for activities of the Domestic Nuclear Detection Office, of which $125,000,000 shall be for the purchase and deployment of radiation portal monitors for United States ports of entry and of which no less than $81,000,000 shall be for radiological and nuclear research and development activities: Provided further, That excluding the funds made available under the preceding proviso for radiation portal monitors, $144,760,500 of the total amount made available under this heading for the Domestic Nuclear Detection Office shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan for the Domestic Nuclear Detection Office: Provided further, That the expenditure plan shall include funding by program, project, and activity for each of fiscal years 2006 through 2010 prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: Provided, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

(e) Hereafter, notwithstanding any other provision of law, notifications pursuant to this section or any other authority for reprogramming or transfer of funds shall be made solely to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the ''Department of Homeland Security Working Capital Fund'', except for the activities and amounts allowed in section 6024 of Public Law 109–13, excluding the Homeland Secure Data Network: Provided, That any additional activities and amounts must be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year 2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

SEC. 507. The Federal Law Enforcement Training Center shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the

Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. The Secretary of Homeland Security shall take all actions necessary to ensure that the Department of Homeland Security is in compliance with the second proviso of section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and House of Representatives biweekly beginning on October 1, 2005, on any reasons for non-compliance: Provided, That, furthermore, the Secretary shall take all possible actions, including the procurement of certified systems to inspect and screen air cargo on passenger aircraft, to increase the level of air cargo inspected beyond that mandated in section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and the House of Representatives every six months on the actions taken and the percentage of air cargo inspected at each airport.

SEC. 514. Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

SEC. 515. For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

SEC. 516. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: Provided, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

SEC. 517. Hereafter, notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.

SEC. 518. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(d) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(e) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 519. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 520. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 521. None of the funds appropriated by this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SEC. 522. None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

SEC. 523. The Department of Homeland Security processing and data storage facilities at the John C. Stennis Space Center shall hereafter be known as the ''National Center for Critical Information Processing and Storage''.

SEC. 524. The Secretary, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 525. The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: Provided, That beginning with November 2005, TSA shall provide a monthly report to the Committees on Appropriations of the Senate and the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.

SEC. 526. None of the funds available for obligation for the transportation worker identification credential program shall be used to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility: Provided, That no funding can be obligated for the next phase of production until the Committees on Appropriations of the Senate and the House of Representatives have been fully briefed on the results of the prototype phase and agree that the program should move forward.

SEC. 527. (a) From the unexpended balances of the United States Coast Guard ''Acquisition, Construction, and Improvements'' account specifically identified in the Joint Explanatory Statement (House Report 108–10) accompanying Public Law 108–7 for the 110–123 foot patrol boat upgrade, the Joint Explanatory Statement (House Report 108–280) accompanying Public Law 108–90 for the Fast Response Cutter/110–123 foot patrol boat conversion, and in the Joint Explanatory Statement (House Report 108–774) accompanying Public Law 108–334 for the Integrated Deepwater System patrol boats 110–123 foot conversion, $78,630,689 are rescinded.

(b) For necessary expenses of the United States Coast Guard for ''Acquisition, Construction, and Improvements'', an additional $78,630,689, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and accelerated design and production of the Fast Response Cutter.

SEC. 528. The Secretary of Homeland Security shall utilize the Transportation Security Clearinghouse as the central identity management system for the deployment and operation of the registered traveler program and the transportation worker identification credential program for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a central activation, revocation, and transaction hub for participating airports, ports, and other points of presence.

SEC. 529. None of the funds made available in this Act may be used by any person other than the privacy officer appointed pursuant to section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared pursuant to paragraph (5) of such section.

SEC. 530. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR) or anyone acting in a similar or like capacity who has not received COTR training.

SEC. 531. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration ''Aviation Security'' and ''Administration'' in fiscal years 2004 and 2005 that are recovered or deobligated shall be available only for procurement and installation of

explosive detection systems for air cargo, baggage, and checkpoint screening systems: Provided, That these funds shall be subject to section 503 of this Act.

SEC. 532. Not later than 60 days from the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a survey of all ports of entry in the United States and designate an airport as a port of entry in each State that does not have a port of entry.

SEC. 533. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable the city to repair and upgrade all damaged and undamaged elements of the Carnegie Library in the City of Paso Robles, California, which was damaged by the 2003 San Simeon earthquake, so that the library is brought into conformance with all local code requirements for new construction: Provided, That the appropriate Federal share shall apply to approval for this project.

SEC. 534. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program costs for the damage to canals and wooden flumes, which was incurred during a 1996 storm and subsequent mudslide in El Dorado County, California, to the El Dorado Irrigation District, based on fifty percent of the costs of the Improved Project for the Mill Creek to Bull Creek tunnel proposed in a November 2001 Carleton Engineering Report: Provided, That the appropriate Federal share shall apply to approval for this project.

SEC. 535. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable replacement of research and education materials and library collections and for other non-covered losses at the University of Hawaii Manoa campus, Hawaii, resulting from an October 30, 2004, flood event.

SEC. 536. Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended by striking ''the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)),'' and inserting ''the Internal Revenue Code of 1986, agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), and the pressing of apples for cider on a farm,''.

SEC. 537. Using funds made available in this Act, the Secretary of Homeland Security shall provide that each office within the Department that handles documents marked as Sensitive Security Information (SSI) shall have at least one employee in that office with authority to coordinate and make determinations on behalf of the agency that such documents meet the criteria for marking as SSI: Provided, That not later than December 31, 2005, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives: (1) Department-wide policies for designating, coordinating and marking documents as SSI; (2) Department-wide auditing and accountability procedures for documents designated and marked as SSI; (3) the total number of SSI Coordinators within the Department; and (4) the total number of staff authorized to designate SSI documents within the Department: Provided further, That not later than January 31, 2006, the Secretary shall provide to the Committees on Appropriations of the Senate and the House of Representatives the title of all DHS documents that are designated as SSI in their entirety during the period October 1, 2005, through December 31, 2005: Provided further, That not later than January 31 of each succeeding year, starting on January 31, 2007, the Secretary shall provide annually a similar report to the Committees on Appropriations of the Senate and the House of Representatives on the titles of all DHS documents that are designated as SSI in their entirety during the period of January 1 through December 31 for the preceding year: Provided further, That the Secretary shall promulgate guidance that includes common but extensive examples of SSI that further define the individual categories of information cited under 49 CFR 1520(b)(1) through (16) and eliminates judgment by covered persons in the application of the SSI marking: Provided further, That such guidance shall serve as the primary basis and authority for the marking of DHS information as SSI by covered persons.

SEC. 538. For grants to States pursuant to section 204(a) of the REAL ID Act of 2005 (Division B of Public Law 109–13), $40,000,000, to remain available until expended: Provided, That of the funds provided under this section, $34,000,000 may not be obligated or allocated for grants until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an implementation plan for the responsibilities of the Department of Homeland Security under the REAL ID Act of 2005 (Division B of Public Law 109–13), including the proposed uses of the grant monies: Provided further, That of the funds provided under this section, not less than $6,000,000 shall be made available within 60 days from the date of enactment of this Act to States for pilot projects on integrating hardware, software, and information management systems.

SEC. 539. For activities related to the Department of Homeland Security Working Capital Fund, subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note), is amended by striking ''October 1, 2005'' and inserting ''October 1, 2006''.

SEC. 540. For fiscal year 2006 and thereafter, notwithstanding section 553 of title 5, United States Code, the Secretary of Homeland Security shall impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice in the Federal Register, and may modify the fee from time to time by notice in the Federal Register: Provided, That such fees shall not exceed the aggregate costs associated with the program and shall be credited to the Transportation Security Administration registered traveler fee account, to be available until expended.

SEC. 541. A person who has completed a security awareness training course approved by or operated under a cooperative agreement with the Department of Homeland Security using funds made available in fiscal year 2006 and thereafter or in any prior appropriations Acts, who is enrolled in a program recognized or acknowledged by an Information Sharing and Analysis Center, and who reports a situation, activity or incident pursuant to that program to an appropriate authority, shall not be liable for damages in any action brought in a Federal or State court which result from any act or omission unless such person is guilty of gross negligence or willful misconduct.

SEC. 542. Of the unobligated balances available in the ''Department of Homeland Security Working Capital Fund'', $15,000,000 are rescinded.

SEC. 543. Of the unobligated balances from prior year appropriations made available for Transportation Security Administration ''Aviation Security'', $5,500,000 are rescinded.

SEC. 544. Of funds made available for the United States Coast Guard in previous appropriations Acts, $6,369,118 are rescinded, as follows: (1) $499,489 provided for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 105–277; (2) $87,097 provided for ''Coast Guard, Operating Expenses'' in Public Law 105–277; (3) $269,217 provided for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 107–87; (4) $8,315 provided for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 106–69; and (5) $5,505,000 for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 108–90.

SEC. 545. Of the unobligated balances from prior year appropriations made available for the ''Counterterrorism Fund'', $8,000,000 are rescinded.

SEC. 546. Of the unobligated balances from prior year appropriations made available for Science and Technology ''Research, Development, Acquisition, and Operations'', $20,000,000 are rescinded.

SEC. 547. SECURITY SCREENING OPT-OUT PROGRAM. Section 44920 of title 49, United States Code, is amended by adding at the end the following:

''(g) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

''(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or section 44919 or such airport operator's decision not to submit an application; and

''(2) any act of negligence, gross negligence, or intentional wrongdoing by—

''(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

''(B) employees of the Federal Government providing passenger and property security screening services at the airport.

''(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.''.

SEC. 548. The weekly report required by Public Law 109–62 detailing the allocation and obligation of funds for ''Disaster Relief'' shall include: (1) detailed information on each allocation, obligation, or expenditure that totals more than $50,000,000, categorized by increments of not larger than $50,000,000; (2) the amount of credit card purchases by agency and mission assignment; (3) obligations, allocations, and expenditures, categorized by agency, by State, and for New Orleans, and by purpose and mission assignment; (4) status of the Disaster Relief Fund; and (5) specific reasons for all waivers granted and a description of each waiver: Provided, that the detailed information required by paragraph (1) shall include the purpose; whether the work will be performed by a governmental agency or a contractor; and, if the work is to be performed by a contractor, the name of the contractor, the type of contract let, and whether the contract is sole-source, full and open competition, or limited competition.

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2006''.

And the Senate agree to the same.

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JOHN E. SWEENEY,
JIM KOBLE,
ERNEST J. ISTOOK, JR.,
RAY LAHOOD,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSÉ E. SERRANO,
LUCILLE ROYBAL-ALLARD,

SANFORD D. BISHOP,
CHET EDWARDS,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE DOMENICI,
RICHARD SHELBY,
LARRY CRAIG,
ROBERT F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2360), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment. The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill. Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances, the managers are referring to the House Subcommittee on Homeland Security and the Senate Subcommittee on Homeland Security.

The language and allocations contained in House Report 109–79 and Senate Report 109–83 should be complied with unless specifically addressed to the contrary in the conference report and statement of managers. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the conference report or joint statement of managers, the conferees have determined that the House report and Senate report are not inconsistent and are to be interpreted accordingly. In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. Further, in a number of instances, House Report 109–79 and Senate Report 109–83 direct agencies to report to the Committees by specific dates. In those instances, and unless alternative dates are provided in the accompanying explanatory statement, agencies are directed to provide these reports to the Committees on Appropriations no later than February 10, 2006.

CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex accompanying this report.

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

The conferees agree to provide $79,409,000 instead of $113,139,000 as proposed by the House and $124,620,000 as proposed by the Senate. Funding shall be allocated as follows:

Immediate Office of the Secretary	$2,393,000
Immediate Office of the Deputy Secretary	1,132,000
Chief of Staff	4,103,000
Executive Secretary	4,131,000
Office of Policy	20,713,000
Office of Public Affairs	8,312,000
Office of Legislative and Intergovernmental Affairs	6,325,000
Office of General Counsel	11,267,000
Office of Civil Rights and Liberties	13,000,000
Citizenship and Immigration Services Ombudsman	3,652,000
Privacy Officer	4,381,000
Total	$79,409,000

DHS REORGANIZATION

Since March 2005, the Department of Homeland Security (DHS) has been conducting an internal review of its policies, operations and organizational structure, known as the ''Second Stage Review''. On July 13, 2005, the Department announced a major reorganization that reflects the findings of this review. A budget amendment was submitted on July 21, 2005, requesting the appropriations structure be modified for fiscal year 2006 to reflect this reorganization proposal. For the most part, the conferees have complied with these requests. The conferees concur with the Department's decision to abolish the Office of the Under Secretary for Border and Transportation Security (BTS); BTS functions have been merged into other offices and component agencies throughout the Department. The conferees have agreed to split the Directorate of Information Analysis and Infrastructure Protection into two new components—Analysis and Operations and the Preparedness Directorate—and move all State and local grants and associated activities to the new Preparedness Directorate. The conferees concur with the Secretary's recommendation to transfer the Federal Air Marshals to the Transportation Security Administration. Finally, the conferees have included and expanded the roles and responsibilities of the Office of Policy. A more detailed discussion of this reorganization is contained under statement of managers language for each impacted office.

NEW STAFF

The conferees agree to provide funding to support a total of seven new full-time equivalents (FTEs) requested in the budget, including one FTE in the Office of Policy to represent the United States at the European Union, two FTEs in Office of General Counsel, and four FTEs in the Privacy Office. The conferees have approved additional new FTEs for the Office of Security and the Office of National Capital Region Coordination elsewhere in this statement of managers, reflecting changes recommended as a result of the Secretary's organizational restructuring plan submitted on July 13, 2005. The remaining FTEs requested in the budget have been denied due to a large number of unfilled positions in these individual offices. Except for the Privacy Office and the representative to the European Union, the conferees believe full-year funding is not necessary for salaries of employees who are not yet on-board. The conferees have provided half-year funding for new staff in fiscal year 2006.

The conferees, in agreeing to the Secretary's organizational restructuring plan submitted on July 13, 2005, have moved additional staff from other agencies within the Department to various offices within the Office of the Secretary and Executive Management. These changes are discussed separately in each office.

ANNUAL BUDGET JUSTIFICATIONS

For fiscal year 2007, the conferees direct that the Congressional budget justifications for all departmental offices be submitted in the same level of detail as the detailed table contained in the back of this report and in the accompanying classified annex. These justifications should include detailed data and explanatory statements in support of each appropriations request, including tables that detail each departmental office program, project, and activity for fiscal years 2006 and 2007. All funding and staffing changes for each individual office must be highlighted and explained, including separate discussions for personnel, compensation, and benefits; travel; training; and other services. The classified budget documents must be submitted at the same time as the unclassified budget. The justifications must be in compliance with section 1105(a) of title 31, including explicit information by appropriations account program, project, and activity on all reimbursable agreements and all uses of the Economy Act for each fiscal year. The budget justifications shall include a table identifying the last year that authorizing legislation was provided by Congress for each program, project, or activity; the amount of the authorization; and the appropriation in the last year of authorization. Finally, in accordance with section 6025 of Public Law 109–13, the Department is required to submit a complete budget justification for the Working Capital Fund.

OFFICE OF POLICY

The conferees agree to provide $20,713,000 instead of $8,770,000 as proposed by the House and $7,258,000 as proposed by the Senate. The Secretary submitted a new organizational restructuring plan on July 13, 2005, which included major changes to the Office of Policy; the conference agreement reflects these changes. The conferees include the activities of the Special Assistant to the Secretary—Private Sector; Office of Immigration Statistics; 18 FTEs from the Office of the Under Secretary for BTS; and three FTEs from the Directorate of Information Analysis and Infrastructure Protection. The conferees have denied funding for the Operational Integration staff as part of this office or any other entity within DHS.

STOLEN PASSPORTS

The conferees direct the Secretary to report on Departmental actions to prevent and stop the use of stolen passports, as directed in House Report 109–79, under the Office of the Under Secretary for Border and Transportation Security.

OFFICE OF SECURITY

Funding for the Office of Security is provided within the Under Secretary for Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF NATIONAL CAPITAL REGION COORDINATION

Funding for the Office of National Capital Region Coordination is provided within the Preparedness Directorate, Management and Administration account as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS

The conferees agree to provide $6,325,000 instead of $5,500,000 as proposed by the House and $5,400,000 as proposed by the Senate. As proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, six FTEs are transferred from the Office of State and Local Government Coordination and Preparedness, Management and Administration account, to the Office of Legislative Affairs for intergovernmental coordination activities. Within the funds provided, $5,400,000 is for legislative affairs and $925,000 is for intergovernmental operations.

OPERATIONAL INTEGRATION STAFF

The conferees agree to provide no funding for the Operational Integration staff, as proposed by the Senate instead of $7,495,000 as proposed by the House. The conferees note the new Office of Policy will perform many of the proposed activities of the Operational Integration staff. For those few functions not adequately covered by the new Policy Office, the conferees include three new FTEs within Analysis and Operations. These additional staff shall be located within the Homeland Security Operations Center to coordinate departmental activities.

OFFICE OF THE PRIVACY OFFICER

The conferees agree to provide $4,381,000 for the Office of the Privacy Officer as proposed by the House instead of $3,981,000 as proposed by the Senate. This funding will support the hiring of four new FTEs. The conferees concur with House report language requiring the Secretary to instruct all DHS entities to respond to information and document requests from the Privacy Officer within the requested time frame.

OFFICE OF CIVIL RIGHTS AND CIVIL LIBERTIES

The conferees agree to provide $13,000,000 for the Office of Civil Rights and Civil Liberties and direct this office to hire ten additional staff to fulfill requirements of the Intelligence Reform and Terrorism Prevention Act (Public Law 108–458), as discussed in the Senate report.

REPORTING REQUIREMENTS

While DHS has made progress in submitting reports to the Committees on Appropriations, there are many that are still overdue. DHS is to improve its responsiveness to Congress and better monitor the status of reports requested in this statement of managers and previous House and Senate reports. For reports that cannot be issued by the due date, the conferees direct DHS to inform the Committees in a timely manner, explain the reason for the delay, and seek the concurrence of the Committees on a new issuance date.

IMMIGRATION ENFORCEMENT

Both the House and Senate reports highlighted the alarming statistics regarding our Nation's broken immigration system. In the context of threats facing our Nation, the disturbing growth in our illegal alien population shows immigration enforcement and border control are not succeeding. The conferees agree with the Sense of the Senate proviso expressed in section 519 of the Senate bill, which recognizes the reality of terrorists taking advantage of inadequate security along our border with Mexico, and the need for the Government of Mexico to improve border and security policies on its side of the border. The conferees include bill language directing the Secretary to develop a comprehensive immigration enforcement strategy that results in reducing the number of undocumented aliens in the United States by ten percent per year and direct that the strategy be in accordance with House Report 109–79. The funding is not contingent on the submission of this strategy to Congress as proposed by the House. Further, the conferees direct the report on the internal transport of illegal aliens requested in House Report 109–79 from the Under Secretary of Border and Transportation Security be included in the comprehensive immigration enforcement strategy report.

The conferees direct the Secretary to assume responsibility for the joint report between DHS and the U.S. Department of Justice on reducing absconders required by Senate Report 109–83, and submit the report not later than February 10, 2006.

CARGO CONTAINER SECURITY

The report submitted by the Department on June 9, 2005, was late and did not fully respond to directions of the statement of managers accompanying the conference report (H. Report 108–774) on the fiscal year 2005 Department of Homeland Security Appropriations Act (P.L. 108–334). The Department is directed to conduct the review again and submit a new report that fully complies with those requirements as soon as possible, but no later than February 10, 2006.

TRANSPORTATION SECURITY

In September 2005, the Department submitted its integrated strategic transportation security plan. With the recent events in London, it is even more critical the Department quickly begin to implement strategies outlined in this plan. The conferees direct the Secretary to update the Committees on Appropriations every six months on what progress has been made to enhance transportation security as outlined in the plan. The first update is due March 1, 2006.

GENERAL AVIATION SECURITY

The Secretary, in coordination with the Secretary of Transportation, shall submit a report to the House and Senate Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Government Affairs; and the House Committee on Homeland Security no later than 120 days from the date of enactment of this Act on the vulnerability posed to high-risk areas and facilities from general aviation aircraft that could be stolen or used as a weapon against those areas. Such areas to be considered include those with critical transportation infrastructure, nuclear facilities, military bases, and other highly populated areas with similarly situated critical infrastructure. The report shall include: an analysis of what security vulnerabilities exist at general aviation airports that would permit a general aviation aircraft to be stolen and used as a weapon; whether existing security precautions to prevent breaches of flight lines, perimeters, and aircraft are sufficient; and any additional security measures that could increase the security of general aviation aircraft and airports.

CHEMICAL SECURITY

The conferees are pleased by the Department's recent endorsement of mandatory security requirements for the chemical sector and believe enforceable Federal standards to protect against a terrorist attack on chemical facilities within the United States are necessary. Despite testimony from the Director of Central Intelligence that the chemical industrial infrastructure is vulnerable to a terrorist attack, no federal security measures have been established for the chemical sector. The Department has concluded that, from a regulatory perspective, the existing patchwork of authorities does not permit the effective regulation of the chemical industry. Yet, no legislation has been proposed by the Department to give it such authority. The conferees direct the Secretary to submit a report to the Committees on Appropriations by February 10, 2006, on the resources needed to implement mandatory security requirements for the Nation's chemical sector and to create a system for auditing and ensuring compliance with the security standards. The report should also include a description of the security requirements and any reasons why the requirements should differ from those already in place for chemical facilities that operate in a port zone.

AWARDING OF GRANTS

Consistent with the Senate report, the conferees direct the Department to submit a report by February 10, 2006, providing an expedited schedule for award of grant funds made available by this Act, and for any prior year funds that remain unobligated. For those grant funds awarded after March 30, 2006, the conferees direct the Department to submit a detailed explanation for the delay.

QUADRENNIAL HOMELAND SECURITY REVIEW

The conferees agree there are benefits for the Department of Homeland Security in conducting a Quadrennial Homeland Security Review similar to the quadrennial reviews conducted by the Department of Defense. The conferees encourage the Department to conduct such a review consistent with the terms and conditions listed in section 523(a) through (c) of the Senate bill. The review should be submitted to the House and Senate Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security no later than September 30, 2008.

DATA MINING

The conferees continue to be concerned with the Department's possible use or development of data-mining technology and direct the DHS Privacy Officer to submit a report consistent with the terms and conditions listed in section 528 of the Senate bill.

WORKFORCE DIVERSITY

The conferees urge the Department to make every reasonable effort to ensure diversity in its workforce, procurement, and research partnerships. The conferees also urge the Department to strive to create partnerships and participation in the Centers of Excellence program by historically black colleges and universities, Hispanic-serving institutions, Alaska Native serving institutions and tribally-controlled colleges.

BORDER AND TRANSPORTATION SECURITY REPORTING

The conferees agree to eliminate the requirement set forth in the House report for the Under Secretary for Border and Transportation Security (BTS) to report on the roles and responsibilities of BTS agencies.

OFFICE OF SCREENING COORDINATION AND OPERATIONS

The conferees agree to provide $4,000,000 for the management and administration of the Office of Screening Coordination and Operations. The conferees do not agree to transfer United States Visitor and Immigrant Status Indicator Technology, Secure Flight, or any other program activities to this office. These activities are to remain separate and distinct and are funded under other appropriations in this Act.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

The conferees agree to provide $168,835,000 instead of $49,984,000 as proposed by the House and $146,322,000 as proposed by the Senate. Funding shall be allocated as follows:

Under Secretary for Management	$1,687,000
Office of Security	51,278,000
Business Transformation Office	1,880,000
Office of the Chief Procurement Officer	9,020,000
Office of the Chief Human Capital Officer	38,900,000
Office of the Chief Administrative Officer	66,070,000
Total	$168,835,000

NEW STAFF

The conferees agree to provide funding to support a total of 71 new full-time equivalents (FTEs), including 60 FTEs in the Office of Security, ten FTEs in the Office of Administration and one FTE for the Office of the Chief Human Capital Officer. Funding was not provided for the one new FTE requested by the Under Secretary for Management. The conferees believe full-year funding is not necessary for salaries of employees who are

not yet on-board and instead have provided half-year funding for the new staff in fiscal year 2006.

BUSINESS TRANSFORMATION OFFICE

The conferees agree to provide $1,880,000 for the Business Transformation Office instead of $948,000 as proposed by the House and $920,000 as proposed by the Senate. Funding levels reflect a transfer of seven FTEs from the Under Secretary for Border and Transportation Security, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF THE CHIEF PROCUREMENT OFFICER

The conferees agree to provide $9,020,000 for the Office of the Chief Procurement Officer. As discussed in the Senate report, the conferees direct the Chief Procurement Officer to use the increased funding to hire and train qualified procurement officers, to report on the number of procurement officers in the Department, including each organization, for fiscal years 2004, 2005, and proposed for 2006, and to provide an assessment of the adequacy of the numbers and training of those personnel.

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER

The conferees agree to provide $38,900,000 instead of $61,951,000 as proposed by the House and $61,996,000 as proposed by the Senate. Within the funds provided, $8,900,000 is for salaries and expenses and $30,000,000 is for the new human resource management system, known as MAX–HR. As discussed in the Senate report, the conferees direct the Department to submit a report on the progress made to implement the MAX–HR system. In addition to the total funding available and needed for this program by year, the report shall list all contract obligations and expenditures by contractor by year, along with the purpose of the contract.

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

The conferees agree to provide $66,070,000 instead of $66,356,000 as proposed by the House and $66,801,000 as proposed by the Senate. Within the funds provided, $40,000,000 is for salaries and expenses and $26,070,000 is to consolidate and integrate headquarter operations at the Nebraska Avenue Complex (NAC).

Of the $26,070,000 provided for the NAC, $8,300,000 is for security enhancements, $10,257,000 is for tenant improvements, $3,400,000 is for capital improvements, and $4,113,000 is for campus-wide design and construction costs. The conferees agree to language included in the Senate report directing the Department to update the Committees on Appropriations regularly on the physical consolidation and planned expenditures for the NAC, as well as its plans for a permanent headquarters. These updates should occur as frequently as necessary but not less than quarterly.

OFFICE OF IMMIGRATION STATISTICS

Funding for the Office of Immigration Statistics is provided within the Office of the Secretary and Executive Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF SECURITY

The conferees agree to provide $51,278,000 as proposed by the House instead of $55,278,000 as proposed by the Senate. The conferees agree to move the Office of Security to the Office of the Under Secretary for Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

SENSITIVE SECURITY INFORMATION

The conferees agree to include a general provision (section 537) on Sensitive Security Information (SSI) as proposed by the House. The conferees are concerned that because of insufficient management controls, information that should be in the public domain may be unnecessarily withheld from public scrutiny. The conferees require the Secretary to ensure that each appropriate office has an official with the clear authority to designate documents as SSI and to provide clear guidance as to what is SSI material and what is not. Designation means an original determination made by a limited number of appointed officials pursuant to 49 CFR §1520.5(b (1)–(16)). The conferees direct the Secretary to report to the Committees not later than January 3, 2006, the titles of all documents that are designated by DHS as SSI in their entirety during the period beginning October 1, 2005, and ending December 31, 2005, and a full-year report each year thereafter.

CLASSIFIED AND SECURITY SENSITIVE DOCUMENTS

The conferees direct the Office of Security to ensure the Department's classified and security sensitive documents clearly identify, paragraph-by-paragraph, which paragraphs contain classified information and which do not. This is consistent with actions taken by other federal agencies.

UNOBLIGATED BALANCES

The conferees direct the Under Secretary for Management to submit a report listing all funds transferred to the Department when it was formed that remain unobligated, the purpose for which the funds were appropriated, the reason the funds remain unobligated, and the Department's plans for the use of these funds, as discussed in the Senate report.

WORKING CAPITAL FUND

The conferees agree to include a provision (section 542) that rescinds $15,000,000 from the Department's Working Capital Fund (WCF) instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate.

The conferees direct the Department to use the WCF plan submitted on April 11, 2005, as the base document for funding decisions in fiscal year 2006. The Committees on Appropriations shall be notified and must approve any deviations from that plan. In addition, section 6024 of Public Law 109–13 excludes funding of the Homeland Secure Data Network (HSDN) within the WCF. The conferees continue to support this position and have provided adequate funding for HSDN within the Office of the Chief Information Officer. The WCF should not be used to supplement HSDN without notification and approval of the Committees.

OFFICE OF THE CHIEF FINANCIAL OFFICER

The conferees agree to provide $19,405,000 instead of $18,505,000 as proposed by the House and $18,325,000 as proposed by the Senate. Funding levels reflect a transfer of seven FTEs from the Under Secretary for Border and Transportation Security, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

MONTHLY REPORTING REQUIREMENTS

The Department is directed to submit a monthly budget execution report that includes: the total obligational authority appropriated (new budget authority plus unobligated carryover), undistributed obligational authority, amount allotted, current year obligations, unobligated authority (the difference between total obligational authority and current year obligations), beginning unexpended obligations, year-to-date costs, and year end unexpended obligations. This budget execution information is to be provided at the level of detail shown in the tables displayed at the end of this report for each Departmental component and the Working Capital Fund. This report must be submitted to the Committees on Appropriations no later than 45 days after the close of each month.

OFFICE OF THE CHIEF INFORMATION OFFICER

The conferees agree to provide $297,229,000 for the Office of the Chief Information Officer (CIO) instead of $303,700,000 as proposed by the House and $286,540,000 as proposed by the Senate. Funding shall be allocated as follows:

Salaries and Expenses	$75,756,000
Information Technology Services	83,444,000
Human Resources	21,000,000
Emerge2	18,000,000
Information Technology Support	44,444,000
Security Activities	19,000,000
Terrorist watch list integration	10,000,000
Information Security and Infrastructure	9,000,000
Wireless Program	86,000,000
Replace legacy border components	16,000,000
New investments in radio infrastructure—borders	52,000,000
Infrastructure optimization and upgrade	18,000,000
Homeland Secure Data Network	33,029,000
Total	297,229,000

INFORMATION TECHNOLOGY INVESTMENTS

The conferees are concerned with the lack of coordination within the Department regarding its information technology (IT) activities. In the interest of fully leveraging and optimizing the potential contribution of IT investments in meeting the homeland security mission while controlling IT investment costs, maintaining schedules, and delivering capabilities, it is critical DHS clearly articulate its objectives and needs. In addition, the conferees are disappointed that, for the last two years, major portions of the IT activities have not been properly displayed in the budget. The conferees direct the CIO to follow the Committees' direction regarding the content and format of appropriations justifications found within the Office of the Secretary for all IT investments.

The conferees agree to include bill language requiring the Department to submit an expenditure plan within 60 days from the date of enactment of this Act for all IT projects funded through the CIO, or funded by multiple components of the Department

through reimbursable agreements. This expenditure plan shall also include a detailed program assessment of the scope; total estimated cost; cost by year; and the schedule for completion, including significant milestones, for each individual project funded for fiscal year 2006 for information technology services, security activities, and wireless programs.

The conferees direct the CIO to provide a report by February 10, 2006, to include: an update of the information technology system inventory dated September 15, 2005; the status and timeline of security certifications for each system; the status of aligning each system with an appropriate investment portfolio; and the status of identifying the systems and/or applications that will migrate to the National Center for Critical Information Processing and Storage during fiscal year 2006.

The conferees agree to include bill language requiring the Department to report on the enterprise architecture and other strategic planning; an Information Technology Human Capital Plan, to include an inventory of current IT work force knowledge and skills, a gap analysis of any shortfalls, and a plan for addressing any shortfalls; a capital investment plan for implementing the enterprise architecture; and a description of the IT capital planning and investment control process. The report must be reviewed and approved by the Office of Management and Budget, reviewed by the Government Accountability Office, and delivered to the Committees within 180 days of enactment of this Act.

The conferees are aware the Department plans to consolidate DHS component agency data centers into two primary data centers. Consistent with section 888 of Public Law 107–296, the conferees instruct the Department to implement the consolidation plan in a manner that shall not result in a reduction to the Coast Guard's Operations System Center mission or its government-employed or contract staff levels.

The conferees have included funding of $33,029,000 for the Homeland Secure Data Network (HSDN) within this account as proposed by the Senate. Other accounts that formerly had resources requested for the HSDN have been reduced accordingly.

Within the total for Information Technology Services, the conferees agree to provide $13,255,000 for Geospatial activities; $2,500,000 for Solutions Engineering; $4,500,000 for Enterprise Applications Delivery; $2,000,000 for e-Gov Initiatives; $5,500,000 for Program Management Support; $1,500,000 for Comsec Modernization; and $3,000,000 for Smartcard Activities. The conferees agree to provide no funding for the MedaData Center of Excellence or the Applied Technology program.

ANALYSIS AND OPERATIONS

The conferees agree to provide $255,495,000 for Analysis and Operations (A&O). The conferees establish this new appropriation in response to the Secretary's organizational restructuring plan submitted on July 13, 2005, and include resources previously provided under the Directorate of Information Analysis and Infrastructure Protection (IAIP) and the Office of the Under Secretary for Border and Transportation Security. The conferees direct the Department to submit a detailed expenditure plan describing the intended use of this funding. This plan shall be provided no later than 60 days from the date of enactment of this Act. The conference recommendation includes sufficient funding to complete distribution of National Weather Service all-hazards radios to schools on a priority basis as proposed by the Senate.

The conferees reduce funding for IAIP Management and Administration transferred to this account based on a continuing large number of vacancies. The Secretary shall submit to the Committees on Appropriations no later than February 10, 2006, a report that identifies staffing and other resource requirements that reconciles the Department's intelligence mission responsibilities under the various Acts and executive orders.

OFFICE OF INSPECTOR GENERAL

The conferees agree to provide $83,017,000 for the Office of Inspector General as proposed by the House and the Senate.

PORT SECURITY

The conferees direct the Inspector General to review the steps the Department has taken to comply with recommendations contained in the Inspector General's report on port security grants (OIG–05–10). This report should be submitted to the House and Senate Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Government Affairs; and the House Committee on Homeland Security no later than February 10, 2006.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished the Office of the Under Secretary for Border and Transportation Security (BTS), instead of $8,617,000 as proposed by the House and $9,617,000 as proposed by the Senate. Funding for the functions currently performed by this office is included under other appropriations in this Act and is identified accordingly.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

The conferees agree to provide $340,000,000 as proposed by the Senate instead of $390,000,000 as proposed by the House. Of these funds, $86,000,000 is available for program management and operations, and $159,658,000 is subject to the requirements of a detailed expenditure plan.

In the statement of managers accompanying the conference report on Public Law 108–334, the Department was directed to submit a report by January 14, 2005, on the status of efforts between the Departments of Homeland Security and Justice to achieve real-time interoperability between the Integrated Automated Fingerprint Identification System and the Automated Biometric Identification System. The Committees on Appropriations did not receive the report until August 22, 2005. The conferees direct the cost and schedule estimate referred to in the report be completed no later than November 20, 2005, so the results can be incorporated into the fiscal year 2006 United States Visitor and Immigrant Status Indicator Technology (US–VISIT) expenditure plan and the fiscal year 2007 President's Budget.

The conferees are encouraged by the Department's announcement of its plans to migrate the US–VISIT program to a ten-fingerprint system—a major step toward full interoperability. The Department is directed to work with the Department of State and report expeditiously on what resources it will need and what actions it will take to achieve this goal.

Finally, the conferees direct that US–VISIT adhere to the most stringent standards in developing and testing its system plans prior to their being deployed or made operational.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

The conferees agree to provide $4,826,323,000 for Customs and Border Protection (CBP), instead of $4,885,544,000 as proposed by the House and $4,922,600,000 as proposed by the Senate. This includes: $1,796,464,000 for border security between ports of entry, including 1,000 additional Border Patrol Agents and $79,496,000 to annualize the cost of 500 Border Patrol Agents funded in Public Law 109–13; $63,024,000 for inspection and detection technology investments, including $1,018,000 to continue the in-bond container security study; $4,000,000 for the Immigration Advisory Program; $500,000 to continue steel tariff training; $54,268,000 for the Customs-Trade Partnership Against Terrorism; $7,000,000 for the FAST program; $14,000,000 for the SENTRI and NEXUS programs; $9,134,000 for the Advanced Training Center; not less than $163,560,000 for the salaries and expenses for the Office of Air and Marine Operations, including $5,000,000 for additional staff, equipment and operations, $5,500,000 for a new Montana Northern Border airwing, and $17,000,000 to cover salaries and expenses associated with the integration of former Border Patrol pilots. Funding was decreased by $12,725,000 from the President's request to reflect that enforcement of forced child labor laws is now a responsibility of Immigration and Customs Enforcement, and by $49,651,000 to reflect all funding for procurement, operations and maintenance of aircraft and marine vessels is included in the Air and Marine Interdiction, Operations, Maintenance, and Procurement appropriation. The conferees make $10,000,000 unavailable for obligation until a detailed five year plan for air and marine operations is submitted to the Committees on Appropriations. No funding is provided in this account for radiation portal monitors. The conferees do not include a rescission of $14,400,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Border Security Inspections and Trade Facilitation	$655,000,000
Border Security and Control Between Ports of Entry	590,000,000
Subtotal, Headquarters Management and Administration	1,245,000,000
Border Security Inspections and Trade Facilitation:	
Inspections, Trade and Travel Facilitation at Ports of Entry	1,262,269,000
Harbor Maintenance Fee Collection (Trust Fund)	3,000,000
Container Security Initiative	138,790,000
Other International Programs	8,629,000
Customs-Trade Partnership Against Terrorism/Free and Secure Trade (FAST)/SENTRI/NEXUS	75,268,000
Inspection and Detection Technology Investments	63,024,000
Automated Targeting Systems	28,253,000

National Targeting Center	16,697,000
Other Technology Investments, Including Information Technology	1,018,000
Training	24,351,000
Subtotal, Border Security Inspections and Trade Facilitation	1,621,299,000
Border Security and Control Between Ports of Entry:	
Border Security and Control	1,742,977,000
America's Shield Initiative	31,284,000
Training	22,203,000
Subtotal, Border Security and Control Between Ports of Entry	1,796,464,000
Air and Marine Operations, Salaries and Expenses	163,560,000
Total, Salaries and Expenses	$4,826,323,000

CONTAINER SECURITY

The conferees concur with the requirement, as detailed in the House report, for a report on how non-intrusive inspection technology system selection, use, and financing for the Container Security Initiative (CSI) could be improved, as well as the Senate report requirement on relations with CSI host nations, to include: steps to explain CSI targeting to host governments; coordination with the State Department; options for withdrawal from uncooperative CSI host nations; and actions taken on Government Accountability Office recommendations for CSI improvement. The conferees direct the Commissioner to submit both reports not later than February 10, 2006.

TRAINING

The conferees concur with the Senate report regarding sixth training day compensation.

EXPEDITED REMOVAL

The conferees are aware the Department has announced a plan to expand its expedited removal program, following success in reducing the overall cost of detention housing for other than Mexican nationals in the Laredo and Tucson sectors, in reducing the number of aliens released on their own recognizance, and in increasing deterrence. The conferees direct the Department to report not later than February 10, 2006, on Border Patrol costs associated with the expanded expedited removal program.

BORDER CROSSING CARDS

The conferees endorse Senate report language requesting a report on Border Crossing Cards and card scanners.

ENFORCEMENT OF TRADE REMEDIES LAW

The conferees have ensured that, of the amounts provided within this account, sufficient funds are available to enforce the antidumping authority contained in section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c).

The conferees direct CBP to continue to work with the Department of Commerce, the Department of Treasury, the Office of the United States Trade Representative, and all other relevant agencies, to provide semiannual reports on its efforts to collect past due amounts and to increase current collections. Furthermore, by June 30, 2006, CBP is to provide the Committees on Appropriations with an update of its report submitted on July 7, 2005, describing interagency efforts to create a coordinated plan to increase antidumping and countervailing duty collections, particularly related to cases involving unfairly traded Asian imports. The report should break out the non-collected amounts for fiscal years 2004 and 2005, by order and claimant, along with a description of the specific reasons for the non-collection with respect to each order.

The conferees direct CBP to confirm that it has completed all of the initiatives, processes, and procedures identified in its February 2005 report to the Committees on Appropriations (including Attachment 1) regarding implementation of the recommendations that were contained in the U.S. Treasury Department Office of the Inspector General report on the Continued Dumping and Subsidy Offset Act. Further, the conferees direct CBP to implement the five recommendations for executive action contained in the GAO report (GAO–05–979) dated September 2005. If those processes and procedures have not been completed, CBP is directed to provide an explanation as to why they have not been completed, and a deadline for when they will be completed. This includes the deadlines for implementing the processes and procedures for verification, including, in particular, the development of the sampling methodology to validate the claimed amount; the testing plan; and all accompanying aspects of verification.

AMERICA'S SHIELD INITIATIVE

The conferees have not provided the requested increase of $19,800,000 for America's Shield Initiative (ASI). At this time, the conferees understand the Department is reviewing the entire planning process for ASI and may suspend all major procurement action until it has resolved fundamental questions about scope and architecture, and possibly its relation to overall, nationwide border domain security and awareness. The conferees expect to be kept informed of the results of this review before the Department proceeds with any significant action and concur with House reporting requirements. The conferees encourage program managers to explore the use of commercial, airborne, off-the-shelf wireless technology as it develops this program.

AGRICULTURAL INSPECTIONS

The conferees direct the Department, in coordination with the U.S. Department of Agriculture, to submit a report by February 10, 2006, providing the information requested in Senate Report 109–83 concerning reduced agricultural inspection levels.

TEXTILE TRANSSHIPMENT ENFORCEMENT

Section 352 of the Trade Act of 2002 authorizes funding for Customs Service textile transshipment enforcement, and specifies how the funds be spent. The conferees include $4,750,000 to continue this effort and direct CBP to report not later than February 10, 2006, on obligating these funds, as well as those appropriated in fiscal years 2004 and 2005. The report should include staffing levels in fiscal years 2003–2006, differentiated by position, as authorized in section 352 of the Trade Act of 2002, and include a five-year enforcement plan. The report should also describe how CBP has redeployed its workforce previously assigned to enter and monitor quota information now that quotas have expired.

TOBACCO IMPORTS

The conferees endorse the requirements set forth in both the House and Senate reports regarding tobacco product imports and direct the Department to comply with them.

AUTOMATION MODERNIZATION

The conferees agree to provide $456,000,000 instead of $458,009,000 as proposed by both the House and the Senate. This amount includes funding for the Automated Commercial Environment (ACE), the Integrated Trade Data System (ITDS), and the costs of the legacy Automated Commercial System. This funding includes not less than $320,000,000 for ACE and ITDS, of which $16,000,000 is for ITDS, and all of which remains subject to approval of an expenditure plan.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $400,231,000 instead of $347,780,000 as proposed by the House and $320,580,000 as proposed by the Senate. This includes: $15,000,000 for palletized sensor systems for P–3 long range tracker aircraft; $16,000,000 for P–3 service life extension; $14,000,000 for manned, covert surveillance aircraft; $12,800,000 for the Montana Northern Border air branch; $20,000,000 for replacement of Border Patrol helicopters; $10,180,000 for unmanned aerial vehicles; $19,471,000 for operations and maintenance of legacy Border Patrol aircraft and marine vessels; and $2,000,000 to begin work on a North Dakota air wing.

P–3 AIRCRAFT

The conferees recognize the CBP P–3 fleet is a critical asset in both homeland security and drug interdiction missions. As CBP implements a service life extension program for its P–3 aircraft, the conferees encourage CBP to adopt the most cost-effective long-term solution for the maximum life extension of its P–3 fleet. In addition, the conferees are aware the U.S. Navy and most nations who fly the P–3 have made service life assessments of their aircraft. The conferees believe CBP should undertake similar assessments to document the airworthiness and structural life remaining in the CBP fleet and direct the Commissioner to incorporate the results of such a service life assessment into the modernization plan.

UNMANNED AERIAL VEHICLES

The conferees agree to provide $10,180,000 for unmanned aerial vehicles, as requested by the President and proposed by both the House and Senate, which may be deployed between ports of entry on the Southwest Border.

CBP AIR PROGRAM

The conferees are aware that the Commissioner plans to combine air operations of the Office of Air and Marine Operations and the Office of Border Patrol into ''CBP Air'', and the conference agreement adjusts the budget accordingly. The conferees direct the Department to implement fully the recommendations in GAO report GAO–05–543 and, as integration proceeds, to consult with the Committees on Appropriations before making any changes in the nature and level of support for legacy air missions.

STRATEGIC PLAN, MODERNIZATION AND RECAPITALIZATION

The conferees remind the Department that detailed information requested in previous conference reports has yet to be provided. With CBP air integration under way, it is essential Congress receive information to understand the status and requirements of the CBP air and marine programs. The conferees withhold $10,000,000 from the CBP Salaries and Expenses appropriation until the Committees on Appropriations receive a five-

year strategic plan for CBP Air (and marine, if complete) that addresses missions, structure, operations, equipment, facilities and resources, including deployment and command and control requirements. This report is to include a modernization plan, including milestones and funding required to recapitalize its fleet and operations, as well as a detailed staffing plan showing current onboard positions, annual targets, and a timetable with associated costs to achieve full staffing to meet all mission requirements.

NATIONAL AVIATION CENTER

The conferees understand the Oklahoma City National Aviation Center has augmented its pilot training with computer-based instructions and simulation, which has increased training efficiency while decreasing costs. The conferees direct the Department to continue this approach.

NORTHERN BORDER AIRWINGS

The conferees believe remaining gaps in air patrol coverage of the Northern Border should be closed as quickly as possible and include $2,000,000 for the initial site assessment, facilities evaluation, lease preparation and other activities associated with the fifth Northern Border airwing in Grand Forks, North Dakota. The conferees direct the Department to include in its fiscal year 2007 budget request the resources necessary to establish the airwing.

CONSTRUCTION

The conferees agree to provide $270,000,000 instead of $93,418,000 as proposed by the House and $311,381,000 as proposed by the Senate. This includes: $81,963,000 for facilities to accommodate 1,000 additional Border Patrol Agents; $35,000,000 for the San Diego fence construction project; $35,000,000 for tactical infrastructure projects in the Tucson sector; and $26,000,000 for the Advanced Training Center. The conferees direct CBP to provide a spending plan and a revised master plan to the Committees on Appropriations that reflects this funding.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

The conferees agree to provide $3,108,499,000 for Immigration and Customs Enforcement (ICE) Salaries and Expenses, instead of $3,064,081,000 as proposed by the House and $3,052,416,000 as proposed by the Senate. This includes an additional $90,000,000 for additional bedspace capacity, including corresponding support positions; $42,000,000 for additional criminal investigator positions; $35,000,000 to annualize new positions and programs funded in Public Law 109–13; $9,000,000 for Immigration Enforcement Agents to support civil and administrative investigations; $16,000,000 for additional fugitive operations teams; $18,000,000 to expand the Institutional Removal Program; $10,000,000 to expand Alternatives to Detention, including the Intensive Supervision Appearance Program; $1,000,000 to increase the speed, accuracy and efficiency of immigration enforcement information currently being entered into the National Criminal Information Center database; $5,000,000 for the Cyber Crimes Center; $15,770,000 for enforcement of laws against forced child labor, as offset by a reduction in Customs and Border Protection, Salaries and Expenses; $5,000,000 for implementation of section 287(g) of the Immigration and Nationality Act; $10,000,000 for the worksite enforcement program; and $2,000,000 for transfer to the U.S. Department of Justice for the Legal Orientation Program. The conferees make $5,000,000 unavailable for obligation until the Committees on Appropriations receive a national detention management plan as described in the House report. The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Personnel Compensation and Benefits, Services and other	$123,600,000
Headquarters Managed IT investment	133,104,000
Subtotal, Headquarters Management and Administration	256,704,000
Legal Proceedings	130,181,000
Investigations:	
Domestic Operations	1,195,050,000
International Operations	101,918,000
Subtotal, Investigations	1,296,968,000
Intelligence	50,970,000
Detention and Removal:	
Detention and Removal Operations	1,013,329,000
Transportation and Removal	135,000,000
Fugitive Operations	102,881,000
Institutional Removal Program	93,969,000
Alternatives to Detention	28,497,000
Subtotal, Detention and Removal	1,373,676,000
Total, Salaries and Expenses	3,108,499,000

IMMIGRATION ENFORCEMENT AGENTS

The conferees agree with the House report noting that a vast majority of immigration law violations are under enforced, and that it would be beneficial to significantly enhance the enforcement of civil immigration violations. The conferees therefore include $9,000,000 for 100 Immigration Enforcement Agents (IEAs), who will work under the supervision of ICE special agents and concentrate their efforts on civil and administrative actions, permitting ICE special agents to concentrate their efforts on criminal investigations and longer term cases. The conferees direct the Department to submit a plan for the expanded use of IEAs for these purposes not later than December 1, 2005, and a status report not later than November 1, 2006, on the operation and impact of the increase in IEA positions.

EXPEDITED REMOVAL AND DETENTION SPACE

The conferees are aware ICE expects a bedspace funding shortfall owing to lower Breached Bond funds and increased bedspace costs. The conferees provide $35,000,000 to cover fiscal year 2006 costs associated with ICE initiatives funded in Public Law 109–13, and therefore expect the Department will not divert $32,000,000 provided in that Act for bedspace to annualize personnel costs. The conferees direct the Department to submit quarterly reports on the fee estimates.

The conferees understand the Department has determined expanding the expedited removal program will require a greater proportion of funding for removal and related costs, and therefore relatively less for bedspace. The conferees direct the Department to report within 30 days from enactment of this Act on the total number of beds to be funded in fiscal year 2006, by funding source, and the fiscal year 2006 spend plan for expedited removal. Further, the Department is directed to include bedspace utilization and funding obligations in its regular immigration enforcement reporting to the Committees on Appropriations.

TEXTILE TRANSSHIPMENT ENFORCEMENT

Section 352 of the Trade Act of 2002 authorizes funding for Customs Service textile transshipment enforcement, and specifies how the funds be spent. The conferees include $4,750,000 to continue this effort and direct ICE to report not later than February 10, 2006, on obligating these funds, as well as those appropriated in fiscal years 2004 and 2005. The report should include staffing levels in fiscal years 2003–2006, differentiated by position, as authorized in section 352 of the Trade Act of 2002, and include a five-year enforcement plan.

IMMIGRATION ENFORCEMENT AND DETENTION STATISTICS

The conferees concur with the immigration enforcement and detention reporting requirements identified in the House and Senate reports, and direct ICE to submit them on a quarterly basis beginning February 10, 2006.

STATE AND LOCAL SUPPORT FOR IMMIGRATION ENFORCEMENT

The conferees support the ''287(g) program'' to cross-designate State and local law enforcement officers to perform limited immigration enforcement functions, and provide $5,000,000 in support of this program, including training participants, as authorized. The conferees encourage the Department to be more proactive in encouraging State and local governments to participate in this program. The conferees fully support the 287(g) program and view it as a powerful force multiplier to better enforce immigration laws and, consequently, to better secure the homeland.

LEGAL ORIENTATION PROGRAM

The conferees include $2,000,000 for the Legal Orientation Program, to be transferred to the U.S. Department of Justice, Executive Office for Immigration Review (EOIR). The Office of Management and Budget is directed to include future funding for this program in funding requests for EOIR.

FEDERAL PROTECTIVE SERVICE

The conferees agree to provide $487,000,000 as proposed by both the House and the Senate.

AUTOMATION MODERNIZATION

The conferees agree to provide $40,150,000 as proposed by the House instead of $50,150,000 as proposed by the Senate. These funds may not be obligated until the Committees on Appropriations receive and approve an expenditure plan, which includes a

requirement for an independent verification and validation.

CONSTRUCTION

The conferees provide $26,546,000 as proposed by both the House and Senate.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

The conferees agree to provide $4,607,386,000 instead of $4,591,612,000 as proposed by the House and $4,452,318,000 as proposed by the Senate. In addition to the amounts appropriated, a mandatory appropriation of $250,000,000 is available to support the Aviation Security Capital Fund. Bill language is also included to reflect the collection of $1,990,000,000 from aviation user fees, as authorized. The following table specifies funding by budget activity:

Screening Workforce:	
Privatized screening	$139,654,000
Passenger screeners—personnel, compensation and benefits	1,520,000,000
Baggage screeners—personnel, compensation, and benefits	884,000,000
Subtotal, Screener Workforce	2,543,654,000
Screener Training and Other:	
Screener training	88,004,000
Passenger screener—other	23,752,000
Checked baggage screener—other	118,591,000
Tort claims	4,000,000
Representation funds	3,000
Model workplace	2,400,000
Hazardous materials disposal	9,800,000
Subtotal, Screener Training and Other	246,550,000
Human Resource Services	207,234,000
Checkpoint Support	165,000,000
Explosive Detection Systems:	
EDS/ETD purchase	175,000,000
EDS/ETD installation	45,000,000
EDS/ETD maintenance and utilities	200,000,000
Operation integration	23,000,000
Subtotal, Explosive Detection Systems	443,000,000
Total, Screening Operations	3,605,438,000
Aviation Direction and Enforcement:	
Aviation regulation and other enforcement	222,416,000
Airport management, information technology and support	686,032,000
Federal flight deck officer and flight crew training	30,500,000
Air cargo	55,000,000
Foreign and domestic repair stations	3,000,000
Airport perimeter security	5,000,000
Subtotal, Aviation Direction and Enforcement	1,001,948,000
Total, Aviation Security	4,607,386,000

STAFFING LEVELS

The conferees agree to continue longstanding bill language that caps the full-time equivalent screener workforce at 45,000 as proposed by the House. The conferees expect the Transportation Security Administration (TSA) to have no more than 45,000 full-time equivalent screeners by the end of fiscal year 2006. The conferees recognize TSA may need to realign its workforce throughout the year due to attrition or advances in detection technologies. TSA has the flexibility to hire screeners during the fiscal year at those airports where additional or replacement screeners are necessary to maintain aviation security and customer service.

PRIVATIZED SCREENING AIRPORTS

The conferees agree to provide $139,654,000 as proposed by the House instead of $146,151,000 as proposed by the Senate. If additional airports are not interested in privatization, or airports currently under this program decide to begin using federal screeners resulting in the need for less funding in fiscal year 2006 to support the current privatized screening airports, TSA is directed to notify the Committees on Appropriations ten days prior to these changes occurring. After that time period has expired, TSA shall adjust its program, project, and activity line items to account for changes in third party private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under the screening partnership program (SPP).

PASSENGER AND BAGGAGE SCREENERS, PERSONNEL, COMPENSATION AND BENEFITS

The conferees agree to provide $1,520,000,000 for passenger screening and $884,000,000 for baggage screening activities for both federal screeners as well as any contracts awarded under SPP for all airports other than the six current privatized screening airports. The conferees agree TSA needs the flexibility to manage the SPP without the need for reprogramming actions for each individual contract and direct TSA to provide the Committees on Appropriations with advance notice ten days before an announcement is made an airport has been selected under SPP or if an airport has decided to begin using federal screeners. At the time the contract is awarded, TSA shall notify the Committees and adjust its program, project, and activity line items to account for changes in third party private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under SPP.

RONALD REAGAN WASHINGTON NATIONAL AIRPORT

The conferees agree to include bill language that provides reimbursement for security services and related equipment and supplies in support of general aviation access to Ronald Reagan Washington National Airport as proposed by the Senate. These reimbursements shall be credited to the ''Aviation Security'' appropriation and be available until expended for only those purposes.

PASSENGER PROCESSING TIMES

Several airports are experiencing unusually large peak volumes associated with international, charter, and scheduled service. Many domestic travelers arriving at the same airport concourse as international flyers are often held up from proceeding to their final destinations because of slow processing times for these international visitors. The conferees direct TSA, in cooperation with Customs and Border Protection, to examine these unique situations, find appropriate solutions, and report back to the Committees on Appropriations no later than February 10, 2006.

CHECKPOINT SUPPORT

The conferees agree to provide $165,000,000 instead of $157,461,000 as proposed by the House and $172,461,000 as proposed by the Senate. This funding should be used to accelerate the testing, procurement, installation, and deployment of new checkpoint technologies. TSA should test these new technologies and equipment at airports using both federal and non-federal screeners. TSA shall submit the report originally requested in fiscal year 2005 on testing and deploying emerging technologies to screen passengers and carry-on baggage to the Committees on Appropriations as expeditiously as possible.

STANDARDS FOR CHECKPOINT TECHNOLOGIES

The conferees recommend TSA work with the National Institute of Standards and Technology to develop standards for checkpoint technologies, as discussed in the Senate report.

EXPLOSIVE DETECTION SYSTEMS INSTALLATION

The conferees agree to provide a total of $295,000,000 for explosive detection systems (EDS) installation, including $250,000,000 in mandatory funding from the Aviation Security Capital Fund and $45,000,000 in this Act. This funding is sufficient to fulfill the federal commitment for the eight Letters of Intent and to install next-generation EDS machines at airports nationwide. The conferees have modified bill language proposed by the Senate clarifying the federal government's cost under a Letter of Intent shall be 75 percent for any medium and large hub airport and 90 percent for any other airports. The conferees also include bill language to permit the Secretary to distribute this funding to enhance aviation security and fulfill the federal commitment to Letters of Intent. The conferees encourage TSA to pursue innovative financing solutions to improve the baggage screening process, as discussed in the House report.

EXPLOSIVE DETECTION SYSTEMS PROCUREMENT

The conferees agree to provide $175,000,000 instead of $170,000,000 as proposed by the House and $180,000,000 as proposed by the Senate. Of these funds, $45,000,000 shall be made available to procure next-generation explosive detection systems, including in-line systems, which have been tested, certified, and piloted. The conferees expect these new systems to replace explosive trace detection systems as much as possible as they are considerably less costly to operate.

EXPLOSIVE DETECTION SYSTEMS MAINTENANCE COSTS

The conferees are concerned about the skyrocketing costs of maintaining explosive detection systems and direct the Government Accountability Office to report by April 2006 on the reasons for past cost increases, including TSA contracting practices. This report is to recommend actions TSA might take to control these costs in the future.

REMOTE BAGGAGE SCREENING

The conferees are aware of TSA's participation with airports and airlines in pilots at various airports around the country to evaluate off-site baggage check-in models. The conferees encourage TSA to widely test remote baggage screening, including coupling off-site check in with off-site screening within the airport grounds at secure sort facilities before the baggage is introduced into the terminal and other critical airport infrastructure.

MULTI-COMPARTMENTAL BINS

The conferees direct TSA to develop a plan to research, test, and potentially implement multi-compartmental bins to screen passenger belongings at security checkpoints.

SCREENING EXEMPTIONS

The conferees agree to retain bill language proposed by the Senate that does not allow heads of federal agencies and commissions to be exempt from passenger and baggage screening.

AVIATION REGULATION AND ENFORCEMENT

The conferees agree to provide $222,416,000 as proposed by the House instead of $230,000,000 as proposed by the Senate.

AVIATION MANAGEMENT, INFORMATION TECHNOLOGY AND SUPPORT

The conferees agree to provide $686,032,000 instead of $655,597,000 as proposed by the House and $748,370,000 as proposed by the Senate. Within the funds provided, $243,662,000 is for management and support staff and $442,370,000 is for information technology.

FEDERAL FLIGHT DECK OFFICER AND FLIGHT CREW TRAINING

The conferees agree to provide $30,500,000 instead of $29,000,000 as proposed by the House and $32,000,000 as proposed by the Senate. Within the funds provided, $27,000,000 is for federal flight deck officer training and $3,500,000 is for voluntary flight crew training.

AIR CARGO

The conferees agree to provide $55,000,000 instead of $60,000,000 as proposed by the House and $50,000,000 as proposed by the Senate. Within the funds provided, $10,000,000 is for hiring 100 additional regulatory inspectors and associated travel costs, and $5,000,000 is to enhance the automated indirect air carrier maintenance system and known shipper data base, as well as for security threat assessments and pending air cargo rulemaking activities.

In addition to the funds provided to TSA for air cargo, the conferees provide $30,000,000 to the Science and Technology (S&T) Directorate to conduct three cargo screening pilot programs testing different concepts of operation. TSA is to cooperate with S&T on this effort.

The conferees direct TSA to work with other DHS components to develop technologies that will move TSA forward to achieving 100–percent screening of air cargo on passenger aircraft.

GENERAL AVIATION

The conferees concur with the House report supporting the Airport Watch program.

AIRPORT PERIMETER SECURITY

The conferees agree to provide $5,000,000 for airport perimeter security pilots. While funding has been provided for this work in the past, the conferees are aware of a variety of innovative technologies that may reduce security weaknesses and vulnerabilities in airports throughout the United States. This funding should be awarded competitively.

SURFACE TRANSPORTATION SECURITY

The conferees agree to provide $36,000,000 as proposed by the House and the Senate. Funding is provided as follows:

Enterprise staff	$24,000,000
Hazardous materials truck tracking and training	4,000,000
Rail inspectors and canines	8,000,000
Total	36,000,000

RAIL SECURITY INSPECTORS AND CANINES

The conferees are very disappointed with TSA's reluctance to quickly hire rail inspectors and deploy canine units at transit systems nationwide. Although these activities were funded in fiscal year 2005, TSA does not have a full contingent of rail inspectors on board and only announced the deployment of canine teams on September 27, 2005. This is unacceptable. The conferees direct TSA to report to the Committees on Appropriations no later than February 10, 2006, on the deployment of the 100 rail security inspectors and canine teams funded in fiscal year 2005 and any new inspectors or canine teams planned for fiscal year 2006.

TRANSPORTATION VETTING AND CREDENTIALING

The conferees agree to provide a direct appropriation of $74,996,000 as proposed by the Senate instead of $84,294,000 as proposed by the House. In addition, the conferees anticipate TSA will collect $180,000,000 in fees. Funding is provided as follows:

Direct Appropriations:	
Secure flight	$56,696,000
Crew vetting	13,300,000
Screening administration and operations	5,000,000
Total, direct appropriations	74,996,000
Fee Collections:	
Registered traveler	20,000,000
Transportation worker identification credential	100,000,000
Hazardous materials	50,000,000
Alien flight school (by transfer from DOJ)	10,000,000
Total, fee collections	180,000,000

SECURE FLIGHT

The conferees agree to provide $56,696,000 as proposed by the Senate instead of $65,994,000 as proposed by the House. TSA has failed to provide a fully justified cost estimate for this program for fiscal year 2006 or achieve initial operational capability with two airlines on August 19, 2005, as originally planned. At this time, TSA does not have a revised schedule and milestones. The conferees have reduced funding for Secure Flight accordingly.

The conferees support the additional layer of aviation security that will be provided through the Secure Flight program. However, delays in obtaining Passenger Name Record data from air carriers needed for testing have postponed initial operating capability of the system. The conferees encourage TSA to commence rulemaking proceedings, and, if necessary, issue a security directive at the earliest possible date to require air carriers to release data necessary for operational tests expected to commence shortly.

The conferees agree to include and modify a general provision (section 518) which directs the Government Accountability Office (GAO) to continue to evaluate DHS and TSA actions to meet the ten elements listed in section 522 of Public Law 108–334 and to report to the Committees on Appropriations either incrementally or when all elements have been satisfied. The provision also prohibits the use of commercial data.

On July 22, 2005, GAO reported TSA did not adequately disclose the use of personal information during Secure Flight testing, violating the Privacy Notice. The conferees are concerned with the recent GAO findings, giving further credence for GAO to continue reviewing the Secure Flight program.

TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL

The conferees agree to include a general provision (section 526) directing the Department to develop a personalization system that is centralized and that uses an existing government card production facility for these purposes as proposed by the House, consistent with direction issued in previous years. TSA may not move into the next phase of production until the Committees on Appropriations have been fully briefed on the results of the prototype phase and agree the program should move forward. Because of the deep interest in this program, beginning

on January 1, 2006, and quarterly thereafter, TSA shall submit reports on the progress of meeting the goals established for the Transportation Worker Identification Credential (TWIC) program.

SCREENING ADMINISTRATION AND OPERATIONS

The conferees agree to provide $5,000,000 for screening administration and operations as proposed by both the House and the Senate. The conferees direct that none of the funds may be used to augment the Secure Flight program and expect funds to be used to support other transportation vetting and credentialing programs that are user fee funded, such as TWIC, alien flight school, and hazardous materials. The conferees are aware these fee-funded programs have carry-over balances from previous fiscal years that may be used to augment administrative and operational needs.

TRANSPORTATION SECURITY SUPPORT

The conferees agree to provide $510,483,000 instead of $541,008,000 as proposed by the House and $491,873,000 as proposed by the Senate. Funding is provided as follows:

Intelligence	$21,000,000
Headquarters Administration	279,391,000
Information Technology	210,092,000
Total, Transportation Security Support	510,483,000

SPENDING AND DEPLOYMENT PLANS

The conferees agree to include bill language to require TSA to submit 60 days from the date of enactment of this Act a plan to the Committees on Appropriations detailing: the optimal deployment plan for explosive detection equipment at the Nation's airports on a priority basis, either in-line or to replace explosive trace detection machines; and an expenditure plan for explosive detection systems procurement and installation on an airport-by-airport basis for fiscal year 2006. The conferees have requested this information for the past two years in report language and TSA has repeatedly ignored these requests. The conferees include bill language withholding $5,000,000 from obligation until this plan is received.

FEDERAL AIR MARSHALS

The Secretary's organizational restructuring plan submitted on July 13, 2005, recommended moving the appropriation for the Federal Air Marshals (FAMs) from Immigration and Customs Enforcement to TSA. The conferees concur with this recommendation and agree to provide $686,200,000 for FAMs instead of $698,860,000 as proposed by the House and $678,994,000 as proposed by the Senate. Within this total, $613,400,000 is for management and administrative expenses, $70,800,000 is for travel and training, and $2,000,000 is to implement the air-to-ground communications system. Funding is available for one year as proposed by the Senate.

STAFFING

The conferees have fully funded the new staff requested; however, funding has been provided for half a year, consistent with actions taken elsewhere in the Department because of the time it takes to hire new employees. A classified report on the status of hiring and training new Federal Air Marshals shall be submitted to the Committees on Appropriations no later than February 10, 2006.

AIRPORT LAW ENFORCEMENT

The conferees direct FAMs to submit a report, in conjunction with the fiscal year 2007 budget, that details a proposal to expand its mission beyond the aircraft and enter the airport security arena, including surveillance in the airport environment and airport-related investigations. The report should elaborate on these expanded responsibilities and the potential impact to FAMs mission, to include: the types of investigations that would be conducted in airports; the potential tangible benefits of FAMs conducting surveillance in an airport; whether this expansion would merit and require the conversion of air marshals to 1811 status; a timeframe for implementation; statistical distribution of workload hours between airport and aircraft missions; additional FTE required; additional costs associated with an enhanced airport mission; additional training requirements; and how an expanded FAMs mission would interrelate with the numerous law enforcement agencies that are currently conducting airport security operations. FAMs shall not move forward with this proposal until the report has been submitted and reviewed by the Committees on Appropriations.

AIR-TO-GROUND COMMUNICATIONS

The conferees agree to provide $2,000,000 for the air-to-ground communications program. The conferees are aware of FAMs working with Science and Technology (S&T), the Federal Communications Commission, and the Federal Aviation Administration to implement an airborne communications system in 2006. The conferees consider this a critical security program and direct FAMs, in conjunction with S&T, to brief the Committees on Appropriations quarterly on its progress.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

The conferees agree to provide $5,492,331,000 instead of $5,500,000,000 as proposed by the House and $5,476,046,000 as proposed by the Senate. Within this amount, $1,200,000,000 is available for defense-related activities as proposed by both the House and the Senate. Further, within this total, $15,450,000 is provided for command, control, communications, computer intelligence, surveillance and reconnaissance (C4ISR) follow-on costs; $10,000,000 is provided as an increase for the Area Security Maritime Exercise Program; $12,000,000 is provided as an increase to implement the May 13, 2005, decision by the Commandant to restructure the Mariner Licensing and Documentation Program; and an additional $4,000,000 above the amounts enacted in fiscal year 2005 is included for C–130J operations. No funding is provided for radiological/nuclear detection and one-time reinvestment costs due to inadequate budget justifications for these activities. The conferees agree to rescind $15,103,569 in unobligated balances from funds provided for port security assessments at tier one ports due to successful completion of this program. Funding for operating expenses shall be allocated as follows:

Military Pay and Related Costs:	
Military pay and allowances	$2,315,270,000
Military health care	580,647,000
Permanent change of station	108,901,000
Subtotal, Military Pay and Related Costs	3,004,818,000
Civilian Pay and Benefits	531,497,000
Training and Recruiting:	
Training and Education	83,554,000
Recruiting	93,576,000
Subtotal, Training and Recruiting	177,130,000
Operating Funds and Unit Level Maintenance:	
Atlantic Command	169,188,000
Pacific Command	177,894,000
1st District	47,166,000
7th District	58,076,000
8th District	39,134,000
9th District	28,431,000
13th District	20,238,000
14th District	14,575,000
17th District	23,951,000
Headquarters directorates	257,550,000
Headquarters managed units	120,000,000
Other activities	767,000
Subtotal, Operating Funds and Unit Level Maintenance	956,970,000
Centrally Managed accounts	185,000,000
Intermediate and Depot Level Maintenance:	
Aeronautical maintenance	230,636,000
Electronic maintenance	101,408,000
Civil/ocean engineering/short facilities maintenance	160,024,000
Vessel maintenance	144,848,000

Subtotal, Intermediate and Depot Level Maintenance	636,916,000
Total, Operating Expenses	5,492,331,000
Rescission, Port Security Assessments (P.L. 108–11)	−15,103,569
Total, Operating Expenses	5,477,227,431

RESPONSIVENESS TO CONGRESS

The conferees are disappointed and frustrated with the Coast Guard's poor responsiveness to Committee direction. For this reason, the conferees note reductions to the budget request for operating expenses are directed at the Coast Guard's senior management and not its field units. The conferees recognize the sacrifices of Coast Guard field personnel and have provided the full amount requested in the fiscal year 2006 budget request to support operational units.

POLAR ICEBREAKING

Both the House and Senate approved the transfer of $47,500,000 in polar icebreaking funding from the Coast Guard to the National Science Foundation (NSF) as requested in the budget. The conferees encourage the Coast Guard, NSF, and the Executive Office of the President to finalize a long-term strategy for polar icebreaking. The conferees direct the Coast Guard to pursue a sustainable cost sharing agreement with the NSF for unanticipated and extraordinary maintenance of the polar icebreakers.

OCCUPATIONAL SAFETY AND HEALTH RISKS

The conferees understand the Coast Guard is currently evaluating technologies to determine how to minimize occupational safety and health risks to Coast Guard personnel. Due to concerns about increasing burdens on Coast Guard personnel, the conferees direct the Coast Guard to report on the status of such evaluations to the Committees on Appropriations no later than 60 days from the date of enactment of this Act.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conferees agree to provide $12,000,000 as proposed by both the House and the Senate.

RESERVE TRAINING

The conferees agree to provide $119,000,000 as proposed by both the House and the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conferees agree to provide $1,141,800,000 instead of $798,152,000 as proposed by the House and $1,141,802,000 as proposed by the Senate. Funding is provided as follows:

Vessels and Critical Infrastructure:	
Response boat medium	$18,500,000
Vessels and Critical Infrastructure	18,500,000
Aircraft:	
Covert Surveillance Aircraft	10,000,000
Armed helicopter equipment	10,000,000
C–130J Missionization	—
Subtotal, Aircraft	20,000,000
Integrated Deepwater System:	
Aircraft:	
Maritime patrol aircraft	68,000,000
Unmanned Aerial Vehicles (UAVs)	40,000,000
HH–60 sustainment projects	37,000,000
HC–130 sustainment projects	11,000,000
HH–65 re-engining	133,100,000
Subtotal, Aircraft	289,100,000
Surface Ships:	
National security cutter, construction	368,000,000
Offshore patrol cutter, development	108,000,000
Fast Response Cutter, long-lead items and development	7,500,000
Short Range Prosecutor program and IDS small boats	700,000
Medium Endurance Cutter program and legacy surface ship sustainment	25,000,000
Subtotal, Surface Ships	509,200,000
C4ISR	44,000,000
Logistics	18,800,000
System engineering and management	37,000,000
Government program management	35,000,000
Subtotal, Integrated Deepwater System	933,100,000
Other Equipment:	
Rescue 21	41,000,000
Automatic Identification System	24,000,000
High frequency recap	—
Subtotal, Other Equipment	65,000,000
Shore Facilities and Aids to Navigation:	
Renovate USCGA Chase Hall barracks	15,000,000
Replace multi-mission building-Group LIS	10,000,000
Construct breakwater-Station Neah Bay	2,800,000
Waterway aids to navigation infrastructure	3,900,000
Subtotal, Shore Facilities and Aids to Navigation	31,700,000
Personnel and Related Support:	
Direct personnel costs	73,000,000
AC&I core	500,000
Subtotal, Personnel and Related Support	73,500,000
TOTAL	1,141,800,000

DEEPWATER

The conferees agree to provide $933,100,000 for the Integrated Deepwater System instead of $500,000,000 as proposed by the House and $988,600,000 as proposed by the Senate. The conferees are troubled by the progress of the Deepwater program. In response to the post-9/11 rebaselining requirements set forth within Public Law 108–334, the Coast Guard responded by missing deadlines, submitting inadequate information, and taking what was a straightforward acquisition program and turning it into a confusing plan that did not sufficiently explain how the Coast Guard intends to manage what is now a $24,000,000,000, 25-year effort. The conferees are supportive of Deepwater and want to see tangible progress in the modernization of the Coast Guard's fleet. However, the conferees are frustrated with the Coast Guard's inadequate justification and poor planning for Deepwater resources.

The conferees include a new provision directing the Coast Guard to submit a review of the Revised Deepwater Implementation Plan in conjunction with the President's fiscal year 2007 budget request. This report shall include: a detailed explanation of any changes to the plan for fiscal year 2007; a detailed, annual performance comparison of Deepwater assets to pre-Deepwater legacy assets in terms of operations and maintenance costs, operational availability (including mean time between failure and mean time to restore), mission performance, and crewing; a status report of legacy assets, including modernization progress, operational availability, and the projected, remaining service life of each class of legacy Deepwater asset; a comprehensive explanation of how the Coast Guard is accounting for the costs of legacy assets in the Deepwater program;

an explanation of why many assets that are elements of the Integrated Deepwater System are not accounted for within Deepwater's appropriation (such as the missionization of the C–130Js, the 179-foot Cyclone class cutters, and the airborne use of force outfitting of the HH60s and HH65s); a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets including rotational crewing for each asset utilizing such crewing and qualification training for commanding officers and petty officers in charge of Deepwater patrol boats; and the earned value management system gold card data, including data for all the factors in this system, for each asset being procured under Deepwater, including C4ISR and C–130J missionization.

The conferees acknowledge the Coast Guard's assertion that the accuracy of a Revised Deepwater Implementation Plan beyond five years is based upon numerous, unpredictable variables such as national security priorities and resource constraints. Therefore, the conferees believe the acquisition schedule for the duration of the plan will likely undergo significant modifications in five-year increments. The Coast Guard has also pointed to five-year increments, beginning in 2011, as benchmarks for measuring the performance of Deepwater assets as an entire system of systems, vice a fleet of non-integrated assets. For these reasons, the conferees have included a new provision directing the Coast Guard to submit a comprehensive review of the Revised Deepwater Implementation Plan every five years beginning in fiscal year 2011. This plan shall include a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027.

As Deepwater progresses, the conferees recognize there must be a methodical transition between the acquisition phase of the program and the integration of new assets into Coast Guard operations. The conferees believe diligent management of this transition is central to ensuring the effectiveness of the Deepwater program as well as the operational readiness of the Coast Guard. To address this concern, the conferees direct the Coast Guard to conduct an operational gap analysis for all Deepwater assets and provide an action plan on how the revised Deepwater plan addresses the shortfalls between current operational capabilities and operational requirements, as specified in the revised, post-9/11 Mission Needs Statement approved on January 24, 2005. This report should apply advanced analytical methods for forecasting future needs, as required in the Senate report, and should be submitted concurrently with the Coast Guard's fiscal year 2007 budget request.

PATROL BOATS

The conferees are very concerned about the availability and performance of the Coast Guard's patrol boat fleet. The 110-foot Island Class patrol boats are currently experiencing major maintenance problems as well as technological obsolescence and the planned patrol boat replacement under Deepwater—the Fast Response Cutter (FRC)—is several years away from sea trials and production. The Coast Guard's patrol boat needs are further stressed given the termination of the 110-to-123 conversion program that was intended to bridge the gap between the phase-out of the 110 and the deployment of the FRC. To address this critical issue and looming shortfall in patrol boat mission hours, the conferees agree to include a provision (section 527) rescinding unobligated funds in the amount of $78,630,689 appropriated for 110-to-123 conversions in fiscal years 2003, 2004, and 2005 and re-appropriating the funds for the service life extension of Island Class patrol boats and the design, production, and long lead materials of the FRC. The conferees direct the Coast Guard to provide a patrol boat availability report to the Committees on Appropriations no later than February 10, 2006, which includes: an expenditure plan for the 110 service life extension program; a detailed explanation of the FRC's accelerated design and production that includes the application of the funds provided by this Act; and a mission hour and operational availability report for each 110 foot and 123 foot patrol boat in service.

COVERT MANNED SURVEILLANCE AIRCRAFT

The conferees do not include a rescission of $13,999,000 in prior appropriations for the purchase of covert manned surveillance aircraft as proposed by the Senate. The conferees direct the Coast Guard to move forward with this procurement and agree to provide $10,000,000 for sensor procurement and installation as proposed by the House.

RESCUE 21

Due to high unobligated balances and extensive program delays, the conferees agree to provide $41,000,000 for Rescue 21 instead of $91,000,000 as proposed by the House and $81,000,000 as proposed by the Senate.

ALTERATION OF BRIDGES

The conferees agree to provide $15,000,000 as proposed by both the House and Senate. Within this total, funds shall be allocated as follows:

Chelsea Street Bridge in Chelsea, Massachusetts	$2,500,000
Canadian Pacific Railroad Bridge in La Crosse, Wisconsin	2,000,000
Fourteen Mile Bridge, Mobile, Alabama	6,000,000
Galveston Railway Bridge, Galveston, Texas	2,500,000
Burlington Northern Santa Fe Bridge in Burlington, Iowa	1,000,000
Elgin, Joliet, and Eastern Railway Company Bridge, Morris, Illinois	1,000,000
Total	15,000,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The conferees agree to provide $17,750,000 instead of $18,500,000 as proposed by the Senate. The House proposed $17,000,000 within the Science and Technology Directorate. The conferees expect the Commandant of the Coast Guard to continue to coordinate with the Under Secretary for Science and Technology on research and development activities.

RETIRED PAY

The conferees agree to provide $1,014,080,000 as proposed by both the House and the Senate.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

The conferees agree to provide $1,208,310,000 instead of $1,228,981,000 as proposed by the House and $1,188,638,000 as proposed by the Senate. This includes: $2,500,000, to remain available until September 30, 2007, for Secret Service costs related to National Special Security Events; $39,600,000 to support investigations of electronic crimes; and $7,889,000 for activities relating to the National Center for Missing and Exploited Children, including $2,389,000 for forensic support. Funds shall be allocated as follows:

Protection:	
Protection of persons and facilities	$576,316,000
National Special Security Event Fund	2,500,000
Protective intelligence activities	56,215,000
White House mail screening	16,365,000
Subtotal, Protection	651,396,000
Field operations:	
Domestic field operations	238,888,000
International field office administration, operations and training	20,968,000
Electronic crimes special agent program and electronic crimes task forces	39,600,000
Subtotal, Field operations	299,456,000
Administration:	
Headquarters, management and administration	203,232,000
National Center for Missing and Exploited Children	7,889,000
Subtotal, Administration	211,121,000
Training:	
Rowley Training Center	46,337,000
Total, Salaries and Expenses	1,208,310,000

NATIONAL SPECIAL SECURITY EVENTS

The conferees agree to provide $2,500,000 for the costs associated with National Special Security Events (NSSEs), instead of $10,000,000 as proposed by the House and no funds as proposed by the Senate. When combined with an unobligated balance of $2,329,000 from fiscal year 2005 appropriations, a total of $4,829,000 is available for

NSSEs; funds appropriated in this Act for this purpose are made available through September 30, 2007. The conferees are aware of additional funds available through the Counterterrorism Fund, which may be made available for this purpose. The conferees are disappointed with the Secret Service's lack of budgetary planning for the costs associated with security operations for NSSEs. Despite the considerable growth in size, complexity, and cost of NSSEs since their inception, the Secret Service has not effectively managed the resource impact of these events. The conferees prohibit the obligation of funds provided under this heading until the Committees on Appropriations receive a current NSSE budget model, as described in the House report.

WORKLOAD REBALANCING

The conferees note the unacceptably high workload of personnel that has resulted from the significant increase in the scope of the Secret Service's dual mission. An average overtime rate of 80 hours per special agent per month has arisen from a constantly evolving, post-9/11 threat environment; a three-fold increase in the number of protectees since 9/11; proliferation of identity theft and electronic crime; the occurrence of increasingly complex NSSEs; and support of Departmental missions such as critical infrastructure protection and cyber security. The conferees believe current workload conditions are unsustainable and direct the Secret Service to submit a workload rebalancing report as described within the House report no later than February 10, 2006.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $3,699,000 as proposed by both the House and Senate.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $16,079,000 for management and administration of the Preparedness Directorate. Included in this amount is $13,187,000 for the Office of the Under Secretary for Preparedness; $2,000,000 for the Office of the Chief Medical Officer, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005; and $892,000 for the Office of National Capital Region Coordination, including half year funding for two new staff. The conferees encourage the Office of National Capital Region Coordination to detail these personnel to the Homeland Security Operations Center if appropriate and necessary.

The conferees establish this new account in response to the Secretary's organizational restructuring plan submitted on July 13, 2005, and include resources previously provided under the Office of the Under Secretary for Information Analysis and Infrastructure Protection (IAIP); the Office of the Under Secretary for Border and Transportation Security; the Office of State and Local Government Coordination and Preparedness; and the Office of National Capital Region Coordination previously funded in the Office of the Secretary and Executive Management.

The conferees understand the newly created Preparedness Directorate will assess and prioritize policies and operations to enhance preparedness for a natural disaster or terrorist attack. The conferees direct this Directorate to work with the Director of Federal Emergency Management Agency to continue an all-hazard approach for preparation, response and recovery to any type of disaster.

OFFICE FOR DOMESTIC PREPAREDNESS

SALARIES AND EXPENSES

The conferees agree to provide $5,000,000 for Office for Domestic Preparedness (ODP) salaries and expenses.

STATE AND LOCAL PROGRAMS

The conferees agree to provide $2,501,300,000 instead of $2,831,400,000 as proposed by the House and $2,714,300,000 as proposed by the Senate. State and Local Programs funding is allocated as follows:

State Formula Grants:	
State Homeland Security Grant Program	$550,000,000
Law Enforcement Terrorism Prevention	400,000,000
Subtotal, State Formula Grants	950,000,000
Discretionary Grants:	
High-Threat, High-Density Urban Area	765,000,000
Rail and Transit Security	150,000,000
Port Security	175,000,000
Buffer Zone Protection Plan	50,000,000
Intercity Bus Security	10,000,000
Trucking Security	5,000,000
Subtotal, Discretionary Grants	1,155,000,000
Commercial Equipment Direct Assistance Program	50,000,000
National Programs:	
National Domestic Preparedness Consortium	145,000,000
National Exercise Program	52,000,000
Metropolitan Medical Response System	30,000,000
Technical Assistance	20,000,000
Demonstration Training Grants	30,000,000
Continuing Training Grants	25,000,000
Citizen Corps	20,000,000
Evaluations and Assessments	14,300,000
Rural Domestic Preparedness Consortium	10,000,000
Subtotal, National Programs	346,300,000
Total, State and Local Programs	2,501,300,000

For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state shall constitute a ''local unit of government.''

The conferees expect ODP to continue all current overtime reimbursement practices. The conferees continue bill language prohibiting the use of funds for construction, except for Port Security, Rail and Transit Security, and the Buffer Zone Protection Plan grants. Bill language is included, however, to allow State Homeland Security Grant Program (SHSGP), Law Enforcement Terrorism Prevention Program (LETPP), and High-Threat, High-Density Urban Area grants to be used for minor perimeter security projects and minor construction or renovation of necessary guard facilities, fencing, and related efforts, not to exceed $1,000,000 as deemed necessary by the Secretary. The conferees further agree that the erection of communication towers, which are included in a jurisdiction's interoperable communications plan, does not constitute construction for the purposes of this Act.

In addition, the conferees include bill language requiring the Government Accountability Office (GAO) to review the validity of the threat and risk factors, and the application of those factors in the allocation of funds provided to ODP, and to report to the Committees on Appropriations by November 17, 2005, on the results of this review. The Department is required to provide GAO with the necessary information within seven days of enactment of this Act to ensure that this review does not impact the allocation of grants to state and local entities. Further, the conferees direct GAO to review the validity of the threat and risk factors used to allocate discretionary grants, including a project-by-project analysis of grants to nonprofit organizations, in fiscal years 2003, 2004, and 2005, and report to the Committees on Appropriations by May 5, 2006, on the results of this review.

The conferees are concerned with the length of time, some in excess of three years, which certain State and local jurisdictions take to fully expend grant funds. The conferees direct the Department to report, by February 10, 2006, on the status of all open grants made prior to fiscal year 2003, including the specific reasons why the grant dollars have not yet been expended. Further, the report should include recommendations on actions being taken to ensure grant funds are spent in a timely manner and include an update on the execution of recommendations of the Task Force on State and Local Homeland Security Funding Report, dated June 2004.

The conferees agree that for State Formula Grants and High-Threat, High-Density Urban Areas grants, application kits shall be made available within 45 days after the start of fiscal year 2006, states shall have 90 days to apply after the grant is announced, and ODP shall act on an application within 90 days of its receipt. The conferees further agree that no less than 80 percent of these funds shall be passed by the state to local units of government within 60 days of the state receiving funds. Not to exceed three

percent of grant funds may be used for administrative expenses.

STATE FORMULA GRANTS

The conferees agree to provide $550,000,000 for SHSGP instead of $800,100,000 as proposed by the House. The Senate proposed $1,538,000,000 for State and Local Assistance, combining SHSGP and High-Threat, High-Density Urban Area Grants into a single account. The conferees also provide $400,000,000 for LETPP as proposed by both the House and Senate.

DISCRETIONARY GRANTS

The conferees agree to provide $1,155,000,000 instead of $1,190,000,000 as proposed by the House. The Senate proposed $1,538,000,000 for State and Local Assistance, combining SHSGP and High-Threat, High-Density Urban Area Grants into a single appropriation, and provided $365,000,000 for Transportation and Infrastructure Grants in a separate appropriation. Of the funds provided, $765,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas, including $25,000,000 for grants to non-profit organizations determined by the Secretary to be at high risk of international terrorist attacks as proposed by the Senate. The Secretary may not delegate this determination authority and must certify the threat to each grantee three days prior to the announcement of a grant award. The conferees believe the Secretary should consider, as it relates to the grant allocation methodology, tourism destinations that attract tens of millions of visitors annually as potentially high risk targets.

Despite the consolidation of select transportation and infrastructure security grant award functions, Transportation Security Administration (TSA) and Infrastructure Protection and Information Security (IPIS) shall retain operational subject matter expertise of these grants and will be fully engaged in the administration of related grant programs.

PORT SECURITY

The conferees agree to provide $175,000,000 instead of $150,000,000 as proposed by the House and $200,000,000 as proposed by the Senate. The conferees direct ODP to ensure all port security grants are coordinated with the state, local port authority, and the Captain of the Port so all vested parties are aware of grant determinations and that limited resources are maximized. The conferees encourage the Secretary to consider the proximity of existing liquefied natural gas facilities and liquefied petroleum vessels among the risk factors when deciding eligibility for port security grant funding.

RAIL AND TRANSIT SECURITY

The conferees agree to provide $150,000,000 as proposed by the House instead of $100,000,000 as proposed by the Senate. ODP shall continue to work with TSA to develop a robust rail and transit security program and with the Science and Technology Directorate (S&T) on the identification of possible research and design requirements for rail and transit security.

The conferees are concerned by a recent ODP risk assessment that highlights the need for redundant transit operation control abilities in the national capital region to maintain federal government continuity of operations. The conferees direct ODP to submit a report no later than February 10, 2006, on the steps that may be taken to ensure this deficiency is addressed.

COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM

The conferees agree to provide $50,000,000 as proposed by both the House and Senate. The conferees concur with both the House and Senate report language on the Commercial Equipment Direct Assistance Program.

The conferees encourage ODP to work with the Department of Defense (DOD) to ensure promising technologies, such as skin decontamination kits currently in use by DOD, are made available on the commercial market for purchase by state and local agencies responsible for homeland security.

NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $145,000,000 as proposed by the Senate instead of $125,000,000 as proposed by the House. This funding shall be allocated in accordance with the Senate report.

METROPOLITAN MEDICAL RESPONSE SYSTEM

The conferees agree to provide $30,000,000 instead of $40,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

TECHNICAL ASSISTANCE

The conferees agree to provide $20,000,000 as proposed by both the House and Senate. The conferees recognize the importance of interoperable communications standards, which are critical to the Department's efforts to improve communications nationally. The conferees direct the Under Secretary for Science and Technology (S&T) to expedite the development of these standards, and coordinate with ODP to ensure ODP's technical assistance program incorporates these standards, as appropriate, and as spelled out in the Memorandum of Agreement between S&T and ODP.

The conferees note there is no existing capability for real-time exchange of information at the regional or interstate levels regarding equipment and supplies inventory, readiness, or the compatibility of equipment. The conferees encourage ODP to review the use of logistic centers to consolidate State and local assets, provide life-cycle management and maintenance of equipment, allow for easy identification and rapid deployment during an incident, and allow for the sharing of inventories across jurisdictions.

DEMONSTRATION TRAINING GRANTS

The conferees agree to provide $30,000,000 as proposed by the Senate instead of $35,000,000 as proposed by the House. The conferees are concerned, while terrorism prevention is a national priority, little is being done to create prevention expertise in our nation's first responders. Without well developed terrorism prevention plans, state and local agencies lack a key piece in the fight against terrorism. The conferees encourage ODP to create a terrorism prevention certificate training program that will enable graduates to help their communities or organizations develop the necessary terrorism prevention plans.

CONTINUING TRAINING GRANTS

The conferees agree to provide $25,000,000 as proposed by the Senate instead of $30,000,000 as proposed by the House.

CITIZEN CORPS

The conferees agree to provide $20,000,000 instead of $40,000,000 as proposed by the House and $25,000,000 as proposed by the Senate. Mobilizing communities and citizens to assist law enforcement in preventing acts of terrorism is as important as preparing communities and citizens to respond to a terrorist incident. The conferees are aware of the work the Citizen Corps has done in partnership with the National Crime Prevention Council (NCPC) in organizing comprehensive community planning. The conferees encourage ODP to continue to emphasize prevention in all of its programs and to work with the NCPC.

RURAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $10,000,000 as proposed by the House. The Senate included no similar provision. The conferees direct ODP to continue the development of specialized and innovative training curricula for rural first responders and ensure the coordination of such efforts with existing ODP training partners.

INTEROPERABLE COMMUNICATIONS

The conferees concur with the Senate report language regarding interoperable communication implementation plans.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE 8

The conferees concur with the House report language regarding Homeland Security Presidential Directive 8 implementation; however, ODP shall issue the final National Preparedness Goal no later than December 31, 2005, and complete the National Preparedness Assessment and Reporting System no later than September 30, 2006.

EMERGENCY MEDICAL SERVICES

The conferees are very concerned with the lack of first responder grant funding being provided to the Emergency Medical Services (EMS) community. The conferees direct ODP to require state and local governments to include EMS representatives in planning committees as an equal partner and to facilitate a nationwide EMS needs assessment. The conferees do not mandate that a certain percentage of grant funds be allocated to any one type of first responders. However, the conferees direct ODP to evaluate how much money goes to EMS providers and to require an explanation from any state not providing at least ten percent of its grant funding to EMS providers to better train and equip them to provide critical life-saving assistance in the event of a chemical, biological, radiological, or explosive event.

CATASTROPHIC PLANNING

The conferees note the tragic events in the wake of Hurricane Katrina indicate the importance of preparation and having plans in place to deal with catastrophic events. It is imperative all states and Urban Area Security Initiative grantees ensure there are sufficient resources devoted to putting in place plans for the complete evacuation of residents, including special needs groups in hospitals and nursing homes, or residents without access to transportation, in advance of and after such an event, as well as plans for sustenance of evacuees.

The conferees direct the Secretary to report on the status of catastrophic planning, including mass evacuation planning in all 50 states and the 75 largest urban areas by February 10, 2006. The report should include certifications from each state and urban area as to the exact status of plans for evacuations of entire metropolitan areas in the state and the entire state, the dates such plans were last updated, the date exercises were last conducted using the plans, and plans for sustenance of evacuees.

ELIGIBILITY

The conferees urge the Department to work with state and local governments to ensure regional authorities, such as port, transit, or tribal authorities are given due consideration in the distribution of State Formula Grants.

RAPID DECONTAMINATION PREPAREDNESS

The conferees are concerned with the lack of planning and preparation for a rapid decontamination response in the event of a large scale biological or chemical attack. The conferees direct ODP, in consultation with S&T, the Environmental Protection Agency, and other relevant federal agencies,

to report, not later than February 10, 2006, on the feasibility and plan for establishing a regionally based, pre-positioned rapid response capability for the decontamination of biological and chemical agents based on technologies that meet the decontamination standards for those agents.

EFFECTIVENESS SURVEY

The conferees direct the Secretary to comply with section 522 of the Senate bill with regard to a survey of state and local government emergency officials.

FIREFIGHTER ASSISTANCE GRANTS

The conferees agree to provide $655,000,000 instead of $650,000,000 as proposed by the House and $665,000,000 as proposed by the Senate. Of this amount, $110,000,000 shall be for firefighter staffing, as authorized by section 34 of the Federal Fire Prevention and Control Act of 1974, instead of $75,000,000 as proposed by the House and $115,000,000 as proposed by the Senate.

The conferees are concerned by the Department's proposed shift in grant focus from all-hazards to placing a priority on terrorism, and the proposed deletion of several eligible activities, specifically, wellness and fitness programs, emergency medical services, fire prevention programs, public education programs, and modifications of facilities for health and safety of personnel. The Department shall continue the current practice of funding applications according to local priorities and those established by the United States Fire Administration (USFA), continue direct funding of grants to fire departments, continue the peer review process for determining funding awards, reinstate all previously eligible funding areas, and include the USFA during grant administration. The conferees further agree to make $3,000,000 available for implementation of section 205(c) of Public Law 108–169, the United States Fire Administration Reauthorization Act of 2003.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

THE CONFEREES AGREE TO PROVIDE $185,000,000 INSTEAD OF $180,000,000 AS PROPOSED BY THE HOUSE AND $190,000,000 AS PROPOSED BY THE SENATE. THE CONFEREES AGREE EMERGENCY MANAGEMENT PERFORMANCE GRANTS (EMPGS) ARE VITAL TO STATE AND LOCAL EMERGENCY MANAGEMENT SYSTEMS. THE DEPARTMENT SHALL CONTINUE FUNDING PERSONNEL EXPENSES WITHOUT A LIMIT AND CONTINUE CURRENT GRANT ADMINISTRATIVE PRACTICES, INCLUDING GRANT ALLOCATION AND A FOCUS ON ALL-HAZARDS, IN A MANNER IDENTICAL TO FISCAL YEAR 2005. THE CONFEREES AGREE ODP SHALL CONTINUE TO INCLUDE THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) SUBJECT MATTER EXPERTS IN THE REVIEW OF EMPG APPLICATIONS, DETERMINATIONS OF ELIGIBILITY, AND MAKING AWARD DETERMINATIONS. FURTHERMORE, THE CONFEREES EXPECT FEMA REGIONAL EMERGENCY MANAGERS' RELATIONSHIP WITH STATE AND LOCAL GOVERNMENTS TO CONTINUE AND EXPECT ODP TO WORK WITH ALL STATE ADMINISTRATING AGENCIES TO ENSURE FUNDS REACH THE EMERGENCY MANAGEMENT COMMUNITIES AS QUICKLY AS POSSIBLE.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The conferees agree to provide for the receipt and expenditure of fees collected, as authorized by Public Law 105–276 and as proposed by both the House and Senate. The conferees move these programs from the Emergency Preparedness and Response Directorate to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan dated July 13, 2005.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

The conferees agree to provide $44,948,000 for the United States Fire Administration and Training. Of this amount, $4,507,000 is for the Noble Training Center. The conferees move these programs from the Emergency Preparedness and Response Directorate to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan dated July 13, 2005. The conferees concur with Senate report language on the preparedness of local fire departments; however, the report shall be provided by March 1, 2007, instead of February 18, 2006.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

The conferees agree to provide $625,499,000 for infrastructure protection and information security (IPIS) programs. The conferees move IPIS programs from Information Analysis and Infrastructure Protection (IAIP), Management and Administration and Evaluations and Assessments, to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005. Funding is allocated as follows:

Management and Administration	$83,342,000
Critical Infrastructure Outreach and Partnership	112,177,000
Critical Infrastructure Identification and Evaluation	68,500,000
National Infrastructure Simulation and Analysis Center	20,000,000
Biosurveillance	14,100,000
Protective Actions	91,399,000
Cyber Security	93,349,000
National Security/Emergency Preparedness Telecommunications	142,632,000
Total	625,499,000.

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $83,342,000 for Management and Administration. The conferees have reduced Management and Administration funding based on a continuing large number of personnel vacancies. The conferees do not believe the IPIS will reach its fully authorized full-time equivalent levels by the end of fiscal year 2005 and have reduced fiscal year 2006 funding accordingly.

CRITICAL INFRASTRUCTURE OUTREACH AND PARTNERSHIP

The conferees agree to provide $112,177,000 instead of $62,177,000 as proposed by the House and $126,592,000 as proposed by the Senate. Included in this amount is $50,000,000 for the National Center for Critical Information Processing and Storage (NCCIPS) for data center services for critical infrastructure information, including development, operations, and maintenance of the Center. The conferees direct a report, no later than February 10, 2006, on the progress of further developing NCCIPS.

CRITICAL INFRASTRUCTURE IDENTIFICATION AND EVALUATION

The conferees agree to provide $68,500,000 instead of $77,173,000 as proposed by the House and $59,903,000 as proposed by the Senate. Included in this amount is $7,500,000 for the Comprehensive Review directed in the House Report 109–79 and $20,000,000 for the National Asset Database.

CHEMICAL FACILITY SECURITY

The conferees direct the Secretary to complete vulnerability assessments of the highest risk chemical facilities in the United States by December 2006. In determining which facilities to assess, the Secretary should give preference to facilities that, if attacked, pose the greatest threat to human life and the economy. The conferees also direct the Department to complete a national security strategy for the chemical sector by February 10, 2006.

NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER (NISAC)

The conferees agree to provide $20,000,000 instead of $16,000,000 as proposed by the House and $21,000,000 as proposed by the Senate. The conferees agree that Sandia and Los Alamos National Laboratories shall continue to develop the NISAC and be the lead entities in securing the Nation's critical infrastructure.

CYBER SECURITY

The conferees agree to provide $93,349,000, including $30,000,000 to continue National cyber security exercises and outreach. The conferees strongly support cyber partnerships among federal, state, local agencies, and the private sector that demonstrate the ability to transfer technologies from federal laboratories and package them into tools, training, and technical assistance to meet and enhance the demands of federal, state, and local end users. Included in the amount provided is the budget request level for United States Computer Emergency Readiness Team operations.

COUNTERTERRORISM FUND

The conferees agree to provide $2,000,000 instead of $10,000,000 as proposed by the House and $3,000,000 as proposed by the Senate. The conferees expect the Secretary to provide written notification to the Committees on Appropriations upon the designation of a National Special Security Event. The written notification shall include the following information: location and date of the event, federal agencies involved in the protection and planning of the event, the estimated federal costs of the event, and the source of funding to cover the anticipated expenditures.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

The conferees agree to provide $221,240,000 instead of $227,747,000 as proposed by the House and $220,747,000 as proposed by the Senate. Within these funds, the conferees agree to provide $4,306,000 for the office of the Director of the Federal Emergency Management Agency (FEMA) and $5,000,000 for the Document Management Support Program.

The conferees are concerned with administrative actions being taken to close FEMA's Pacific Area Office (PAO). The PAO provides the primary federal response to disasters throughout the Pacific Islands. Given the PAO's proximity to the other Pacific Islands

within Region IX and the specialized knowledge of its staff on the islands' geography and cultures, the conferees direct FEMA to continue to operate the PAO.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

The conferees agree to provide $204,058,000 instead of $249,499,000 as proposed by the House and $193,899,000 as proposed by the Senate. No funding is provided for Nuclear Incident Response as proposed by the Senate. Within these funds, the conferees agree to provide $20,000,000 for catastrophic planning. The conferees do not agree to rescind $9,600,000 as proposed by the Senate. Within the funds provided for catastrophic planning, the conferees agree FEMA shall reimburse non-governmental organizations with cooperating agency responsibilities under the Department's National Response Plan (NRP) and Catastrophic Incident Annex/Supplement (CIA/S) for planning activities required by the NRP–CIA/S, provided costs do not exceed $5,000,000. Further, the Secretary is directed to include these costs in future budget submissions. The conferees concur with Senate bill language encouraging acquisition of an integrated mobile medical system.

The conferees are aware FM broadcast radio infrastructure and public television stations are moving forward with several Integrated Public Alert and Warning System programs towards a national alert and warning policy and architecture and encourage FEMA to support these efforts.

URBAN SEARCH AND RESCUE

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $20,000,000 for urban search and rescue instead of $7,000,000 as proposed by the House and $30,000,000 as proposed by Senate. The conferees direct the Secretary to provide a report by February 10, 2006, on the total costs in fiscal years 2005, 2006, and proposed for 2007 to operate and train the 28 Urban Search and Rescue teams, the cost to maintain the first equipment cache, the cost to maintain the second equipment cache, the cost to replace expiring drugs, the costs to replace/repair equipment that has been used in training or actual disasters, and all other costs of the program. The report should include state, local and Federal costs and an assessment of the appropriate share for each level of government.

NATIONAL INCIDENT MANAGEMENT SYSTEM

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $22,000,000 for the National Incident Management System (NIMS) as proposed by the House. The conferees direct FEMA to use no less than $10,000,000 to continue to implement NIMS nationwide, with a focus specifically on standards identification, testing and evaluation of equipment, and gap and lessons learned identification.

EMERGENCY STRUCTURES

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $4,000,000 for emergency structures as proposed by the House. The Department is strongly encouraged to begin to utilize structures that can be stacked for economical shipping and storage, expanded during assembly to increase useable space, and returned to their original dimensions when disassembled. The structures should also be suitable to address infrastructure needs, such as offices, schools, medical centers, and other public buildings, and sturdy enough to ensure multiple reuse in future deployments. The conferees believe this innovative and higher quality structure should provide substantial cost-savings over time to the federal government through effective multiple reuse, and will enhance current response and recovery activities well beyond the semi-disposable products currently being used. The conferees direct FEMA to commence this new activity immediately and to ensure emergency housing and infrastructure requirements are submitted with their fiscal year 2007 budget request.

MASS EVACUATIONS

The conferees recognize that state and local governments must develop multi-state and multi-jurisdictional plans in the event that a mass evacuation takes place from an urban area to neighboring rural areas. The conferees direct the Department, through the Catastrophic Disaster Planning Program, to develop coordinated guidelines for state and local governments as they develop mass evacuation plans. Plans should include, where appropriate, the pre-positioning of items that will be required during a mass evacuation, such as food, water, medicine and interoperable communications equipment. The Department is encouraged to consider the need for such pre-positioned equipment in allocating first responder funds.

CRISIS COUNSELING

The conferees understand the Crisis Counseling Program, funded to provide mental health services for first responders who responded to the attacks of 9/11 ended September 30, 2005. Further, the conferees understand New York City will provide similar services to those who continue to need services. In order to ensure first responders continue to receive mental health and other services, the conferees direct FEMA to provide a report on the transition of these services from federal to city administration by February 10, 2006.

PUBLIC HEALTH PROGRAMS

The conferees agree to provide $34,000,000 as proposed by both the House and Senate.

DISASTER RELIEF

The conferees agree to provide $1,770,000,000 instead of $2,000,000,000 as proposed by the House and $1,920,000,000 as proposed by the Senate. The conferees concur with House report language on Disaster Relief Fund overpayments; however, the report shall be provided by June 1, 2006, instead of March 15, 2006.

The conferees agree the Secretary shall provide clear, concise, and uniform guidelines for the reimbursement to any county or government entity affected by a hurricane on the costs of hurricane debris removal.

The conferees agree the Secretary shall submit to the Committees on Appropriations a report describing any changes to federal emergency preparedness and response policies and practices as a result of the Inspector General's report (OIG–05–20) related to Hurricane Frances.

The conferees agree that, not later than 90 days from the date of enactment of this Act, the Secretary shall issue new guidelines to prohibit inspectors from entering into a contract for the sale of any house or household item he or she inspected. The guidelines shall apply to those performing inspections that determine eligibility for assistance from FEMA.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The conferees agree to provide $567,000 for administrative expenses as proposed by both the House and Senate. Gross obligations for the principal amount of direct loans shall not exceed $25,000,000 as proposed by both the House and Senate.

FLOOD MAP MODERNIZATION FUND

The conferees agree to provide $200,000,000 as proposed by both the House and Senate. The conferees recognize the importance of the Flood Map Modernization Program to state and local governments. When allocating federal flood mapping modernization funds, the conferees encourage FEMA to prioritize as criteria the number of stream and coastal miles within the state, the Mississippi River Delta region, and the participation of the state in leveraging non-federal contributions. The conferees further direct FEMA to recognize and support those states that integrate the Flood Map Modernization Program with other state programs to enhance greater security efforts and capabilities in the areas of emergency management, transportation planning and disaster response. The conferees recognize the usefulness of updated flood maps in state planning, and encourage this efficient use of federal dollars. This is in addition to direction contained in the House and Senate reports.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $36,496,000 for salaries and expenses as proposed by both the House and Senate. The conferees further agree to provide up to $40,000,000 for severe repetitive loss property mitigation expenses pursuant to section 1361A of the National Flood Insurance Act (NFIA) of 1968; $10,000,000 for flood mitigation activities pursuant to section 1323 of the NFIA; and up to $99,358,000 for other flood mitigation activities, of which up to $40,000,000 is available for transfer to the National Flood Mitigation Fund. The conferees further agree on limitations of $55,000,000 for operating expenses, $660,148,000 for agents' commissions and taxes, and $30,000,000 for interest on Treasury borrowings.

The conferees believe that, while the new flood mitigation programs targeted at repetitive loss properties will strengthen the solvency of the National Flood Insurance Fund in the long-term, it is important to manage the short-term health of the Fund as well. Therefore, the conferees direct FEMA, in the execution of these programs, to manage the Fund in the most appropriate manner in order to maintain solvency.

NATIONAL FLOOD MITIGATION FUND

The conferees agree to provide $40,000,000 by transfer from the National Flood Insurance Fund as proposed by the House instead of $28,000,000 as proposed by the Senate.

NATIONAL PREDISASTER MITIGATION FUND

The conferees agree to provide $50,000,000 instead of $150,000,000 as proposed by the House and $37,000,000 as proposed by the Senate. The conferees are concerned with the current large unobligated balances in the National Predisaster Mitigation Fund. The conferees understand FEMA intends to obligate $118,000,000 of carryover funding in fiscal year 2005 and the remaining $130,000,000 by the end of fiscal year 2006. The conferees support the Predisaster Mitigation program but are concerned by the very slow pace of implementation and the obligation of the funds.

EMERGENCY FOOD AND SHELTER

The conferees agree to provide $153,000,000 as proposed by both the House and Senate.

TITLE IV—RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

The conferees agree to provide $115,000,000, instead of $120,000,000 as proposed by the House and $80,000,000 as proposed by the Senate. The conference agreement includes $80,000,000 for backlog elimination, as well as $35,000,000 to support the U.S. Citizenship and Immigration Services (CIS) information technology transformation effort and convert immigration records into digital format. Current estimates of fee collections are

$1,774,000,000, for total resources available to CIS of $1,889,000,000. The conferees direct that, of these collections, not to exceed $5,000 shall be for official reception and representation expenses. The conferees do not require the Department to report on facility needs for CIS.

The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

Backlog Reduction Initiatives (Direct Appropriations):	
Contracting Services (Backlog reduction)	$70,000,000
Other (Backlog reduction)	10,000,000
Digitization and Information Technology Transformation	35,000,000
Subtotal, Backlog Reduction Initiatives	115,000,000
Adjudication Services (fee accounts):	
Pay and Benefits	657,000,000
Operating Expenses:.	
District Operations	349,000,000
Service Center Operations	250,000,000
Asylum, Refugee and International Operations	74,000,000
Records operations	66,000,000
Subtotal, Adjudication Services	1,396,000,000 ERR
Information and Customer Services (fee accounts):	
Pay and Benefits	80,000,000
Operating Expenses.	
National Customer Service Center	47,000,000
Information Services	14,000,000
Subtotal, Information and Customer Services	141,000,000
Administration (fee accounts):	
Pay and Benefits	44,000,000
Operating expenses	193,000,000
Subtotal, Administration	237,000,000
Total, U.S. Citizenship and Immigration Services	1,889,000,000

INFORMATION TECHNOLOGY MODERNIZATION

The conferees include $35,000,000 to support the information technology transformation process at CIS. The conferees direct CIS to refrain from obligating any of the funds until the Committees on Appropriations have received and approved a detailed spending plan, complete with project milestones, and reflecting compliance with DHS and OMB guidelines for information technology investments.

SPANISH LANGUAGE PROGRAMS

The conferees are aware CIS programs such as the National Customer Service Center provide nationwide telephone assistance to customers calling from within the United States about immigration services and benefits; information is available in English and Spanish. The conferees encourage CIS to continue to support programs that provide Spanish-speaking residents with information and assistance related to naturalization and citizenship.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees agree to provide $194,000,000 as proposed by the House and the Senate. This amount includes the funds requested in the budget and an additional $10,638,000 to meet the increased training needs of the Border Patrol and Immigration and Customs Enforcement.

The conferees are concerned with the lack of use of the Cheltenham, Maryland, training site. The conferees direct the Department to provide a report on the utilization rates of this facility and make recommendations on how it intends to improve usage no later than February 10, 2006.

The conferees do not provide authority to assess pecuniary liability against employees and students.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $88,358,000 as proposed by the Senate instead of $64,743,000 as proposed by the House. The increase from the budget request includes $44,327,000 for renovation and construction needs at the Artesia, New Mexico, training center and $3,395,000 for construction at the Glynco, Georgia, training center.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished Information Analysis and Infrastructure Protection (IAIP), Management and Administration, instead of $190,200,000 as proposed by the House and $168,769,000 as proposed by the Senate. Funding for the functions currently performed by IAIP are included under other appropriations in this Act, and are identified accordingly.

ASSESSMENTS AND EVALUATIONS

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished IAIP, Assessments and Evaluations, instead of $663,240,000 as proposed by the House and $701,793,000 as proposed by the Senate. Funding for the functions currently performed by IAIP are included under other appropriations in this Act, and are identified accordingly.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $81,099,000 for management and administration as proposed by the Senate instead of $81,399,000 as proposed by the House. This amount includes $6,479,000 for the immediate Office of the Under Secretary and $74,620,000 for other salaries and expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

The conferees agree to provide $1,420,997,000 for research, development, acquisition, and operations instead of $1,208,597,000 as proposed by the House and $1,372,399,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Biological Countermeasures	$380,000,000
Chemical Countermeasures	95,000,000
Explosives Countermeasures	44,000,000
Threat and Vulnerability, Testing and Assessment	43,000,000
Conventional Missions	80,000,000
Rapid prototyping program	35,000,000
Standards	35,000,000
Emerging Threats	8,000,000
Critical Infrastructure Protection	40,800,000
University Programs/Homeland Security Fellowship Programs	63,000,000
Counter MANPADS	110,000,000
Safety Act	7,000,000
Cyber Security	16,700,000
Interoperability and Compatibility	26,500,000
Research and Development Consolidation	99,897,000
Radiological and Nuclear Countermeasures	19,086,000
Domestic Nuclear Detection Office	318,014,000
Total, Research, Development, Acquisition, and Operations	1,420,997,000

TECHNOLOGY DEVELOPMENT AND TRANSFER

The conferees do not provide separate funding for Technology Development and Transfer as proposed by the House.

BIOLOGICAL COUNTERMEASURES

The conferees agree to provide $380,000,000 for Biological Countermeasures instead of $360,000,000 as proposed by the House and $384,300,000 as proposed by the Senate. The conferees agree to provide $23,000,000 to select a site and other pre-construction activities for the National Bio and Agrodefense Facility.

AIR CARGO

Based on recommendations in Science and Technology's (S&T) system engineering study of civil aviation security, the conferees direct $30,000,000 be used to conduct three cargo screening pilot programs—one at an all cargo airport facility and two at passenger cargo airports (top twenty in size)—to test different concepts of operation, as described in the House report. The conferees expect S&T to utilize TSA airport management staff to manage the oversight and day-to-day operations of these pilot programs to the greatest extent possible. One of the pilots should test whether a significant amount of cargo can be screened in the terminal using existing checked baggage security infrastructure. The conferees also expect S&T to locate these pilots at airport or

airline facilities willing to contribute both physical space and other resources to this effort. The conferees direct S&T to begin all pilots in fiscal year 2006, to report on the initial results of the pilots every six months after initiation of the first pilot, and to report on the final results four months after the last pilot is completed.

RADIOLOGICAL AND NUCLEAR COUNTERMEASURES

The conferees agree to provide $19,086,000 for Radiological and Nuclear Countermeasures as proposed by the House instead of $226,000,000 as proposed by the Senate for Incident Management and Recovery, and Attribution and Forensics on Contaminated Evidence. Funding for all other Radiological and Nuclear portfolio activities is transferred to the Domestic Nuclear Detection Office.

DOMESTIC NUCLEAR DETECTION OFFICE

The conferees agree to provide $318,014,000 for the Domestic Nuclear Detection Office (DNDO) instead of $127,314,000 as proposed by both the House and the Senate. The conferees direct not less than $81,000,000 of the amount provided is for evolutionary and transformational radiological and nuclear research and development activities. DNDO should leverage its resources with existing institutions, such as national labs and the research and development community, where practicable. In addition, $4,000,000 is included for deployment of detection systems at interstate weigh stations. The amount provided also includes $125,000,000, as proposed by the Senate within the S&T ''Rad/Nuc'' research program and by the House within the Customs and Border Protection ''Salaries and Expenses'' account, for the testing, development, and deployment of radiation portal monitors at the Nation's ports-of-entry. Language is included in the bill making this amount available until expended solely for this purpose.

Excluding funding for radiation portal monitors, $144,760,500 may not be obligated until the Committees on Appropriations receive and approve an expenditure plan prepared by the Secretary and reviewed by the Government Accountability Office. None of these funds shall be obligated for establishing new programs, prototyping, or implementing a global systems architecture until the Committees on Appropriations receive and approve the expenditure plan. This plan shall include funding by program, project, and activity for each of fiscal years 2006 through 2010 and an organizational staffing plan, including contractors, full-time employee equivalents, and intra and inter agency detailees. In addition, the conferees direct the expenditure plan include a detailed description of the global nuclear detection systems architecture and milestones and costs, by fiscal year, for implementing the architecture. The plan should also include identification of the roles, missions, and responsibilities of DNDO as compared to the statutory responsibilities of all Federal agencies involved in radiological and nuclear detection and how the DNDO changes any current roles, responsibilities, and functions of each involved Federal partner in both the domestic and international arenas.

CONVENTIONAL MISSION SUPPORT

The conferees agree to provide $80,000,000 as proposed by the House instead of $74,650,000 as proposed by the Senate. The amount includes $25,000,000 for piloting a regional program for Federal Emergency Management Agency/State and Locals, as proposed by the Senate.

CONTAINER SECURITY AND MEGAPORTS INITIATIVE

The conferees support the budget request for container security research activities. The conferees direct the Department to provide a report, in conjunction with the U.S. Department of Energy, by February 10, 2006, on the progress made by both Departments on various radiation technology efforts, the degree of coordination between the megaport initiative and the Container Security Initiative, the types of technology (both radiation detection and other non-intrusive inspection technology) being deployed at specific locations, and the extent to which next generation technology is being explored and developed for future use.

BLAST RESISTANT RECEPTACLES

The conferees concur with the House report on blast resistant receptacles.

CRITICAL INFRASTRUCTURE PROTECTION

The conferees agree to provide $40,800,000 for Critical Infrastructure protection instead of $35,800,000 as proposed by the House and $13,800,000 as proposed by the Senate. The conferees recommend $20,000,000 to support existing work in research, development and application of technology for community based critical infrastructure protection efforts. The conferees are concerned the Department lacks appropriate assessment tools to help prioritize security risks for critical infrastructure and urges S&T to examine well-established scientific analysis tools commonly used in engineering and design, including six sigma analysis.

RAPID PROTOTYPING

The conferees agree to provide $35,000,000 for Rapid Prototyping instead of $30,000,000 as proposed by the House and $20,900,000 as proposed by the Senate. The conferees support the budget request and include additional funds of $4,000,000 to encourage further implementation of section 313 of the Homeland Security Act of 2002, and to increase the speed innovative products are being reviewed, certified, and released to market. An additional $10,000,000 is provided to evaluate emerging civil aviation defense technologies.

COUNTER MANPADS

The conferees agree to provide $110,000,000 as proposed by the House and the Senate. The conferees do not support using $10,000,000 of this amount for investigating alternative technologies as proposed by the House.

INTEROPERABILITY AND COMPATIBILITY

The conferees agree to provide $26,500,000 for Interoperability and Compatibility instead of $41,500,000 as proposed by the House and $15,000,000 as proposed by the Senate. The amount provided includes $5,000,000 for expanded deployment of RapidCom, instead of $10,000,000 as proposed by the House. The conferees concur with the House report language regarding the Risk Assessment Policy Working Group. The conferees direct the Office of Interoperability and Compatibility (OIC) to work with the National Institute of Standards and Technology and the U.S. Department of Justice to require, when Project 25 equipment is purchased with such funds, the equipment meets the requirements of a conformity assessment program. The conferees further direct such a conformity assessment program be funded by this appropriation and be available by the end of fiscal year 2006. Consistent with current SAFECOM guidelines, the conferees agree other technologies can also be funded, but the grant applications should present a compelling argument why the use of these other technologies will improve the status quo of interoperability with neighboring jurisdictions.

AGROTERRORISM

The conferees encourage the Department to work in conjunction with USDA and HHS and other organizations on agroterrorism and animal-based bioterrorism, including the development and stockpiling of veterinary vaccines. The conferees also encourage S&T to work with one or more states to develop a model integrated agricultural response system, utilizing geographic information systems that identify critical agricultural infrastructure. Such a system should help prevent, and mitigate the impact of, incidents.

NEW TECHNOLOGIES

The conferees believe new technologies may significantly help the Department as it seeks to secure our homeland. The conferees encourage the Department to develop such technologies as lightweight miniature cooling systems for protective gear; proteomic pathogen reference libraries; aquatic bioassessment; airborne rapid response mapping; mobile and non-intrusive cargo scanning; investments that focus on nuclear threats and biological attacks, such as aerosolized pathogens and the spread of zoonotic diseases as well as the spread of infectious disease such as SARS and avian flu; real-time detection, identification and assessment of chemical, biological, nuclear, radiological, explosive and concealed threats; mitigating hazardous material shipping violations; and leveraging intelligent transportation systems.

NANOTECHNOLOGY

The conferees believe nanotechnology is a promising technology that can contribute significantly in the defense against terrorism. The conferees encourage S&T to pursue research in nanotechnologies that may aid in the detection of biological, chemical, radiological, and explosive agents; and to consider ways to use these technologies for protecting transit systems.

TUNNELS

The conferees support language in the House report and section 524 of the Senate bill with regard to tunnel detection technologies.

RESEARCH AND DEVELOPMENT CONSOLIDATION

The conferees agree to provide $99,897,000 as proposed by the Senate instead of $116,897,000 as proposed by the House to consolidate all research and development funding within S&T with the exception of research and development activities of the U.S. Coast Guard, which is to remain within that agency.

TITLE V—GENERAL PROVISIONS

Section 501. The conferees continue a provision that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. The conferees continue a provision that unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purpose, subject to reprogramming guidelines.

Section 503. The conferees continue and modify a provision that provides authority to reprogram appropriations within an account and to transfer not to exceed five percent between appropriations accounts with 15-day advance notification of the Committees on Appropriations. A detailed funding table identifying each Congressional control level for reprogramming purposes is included at the end of this statement. These reprogramming guidelines shall be complied with by all agencies funded by the Department of Homeland Security Appropriations Act, 2006.

The conferees expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted to the Committees should include a

detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent position) levels for the current fiscal year and to the levels requested in the President's budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees are concerned with the number of reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests should be submitted only in the case of an unforeseeable emergency or situation that could not have been predicted when formulating the budget request for the current fiscal year. Further, the conferees note that when the Department submits a reprogramming or transfer request to the Committees on Appropriations and does not receive identical responses from the House and Senate, it is the responsibility of the Department to reconcile the House and Senate differences before proceeding, and if reconciliation is not possible, to consider the reprogramming or transfer request unapproved.

The Department is not to propose a reprogramming or transfer of funds after June 30th unless there are exceptional or extraordinary circumstances such that lives or property are placed in imminent danger.

Section 504. The conferees include a new provision that none of the funds appropriated or otherwise available to the Department may be used to make payment to the Department's Working Capital Fund, except for activities and amounts allowed in section 6024 of Public Law 109–13, excluding the Homeland Secure Data Network, as proposed by the Senate.

Section 505. The conferees continue a provision that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2006 from appropriations made for salaries and expenses shall remain available through fiscal year 2007 subject to reprogramming guidelines.

Section 506. The conferees continue a provision that provides that funds for intelligence activities are deemed to be specifically authorized during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

Section 507. The conferees continue and modify a provision that directs the Federal Law Enforcement Training Center (FLETC) to lead the Federal law enforcement training accreditation process.

Section 508. The conferees continue and modify a provision that requires notification of the Committees on Appropriations three business days before any grant allocation, discretionary grant award, discretionary contract award, letter of intent, or public announcement of the intention to make such an award totaling in excess of $1,000,000.

Section 509. The conferees continue a provision that no agency shall purchase, construct, or lease additional facilities for federal law enforcement training without advance approval of the Committees on Appropriations.

Section 510. The conferees continue a provision that FLETC shall schedule basic and/or advanced law enforcement training at all four training facilities under its control to ensure that these training centers are operated at the highest capacity.

Section 511. The conferees continue a provision that none of the funds may be used for any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved.

Section 512. The conferees continue a provision that none of the funds may be used in contravention of the Buy American Act.

Section 513. The conferees include a new provision requiring the Department to take actions to comply with the second proviso of section 513 of Public Law 108–334 and to submit a report to the Committees on Appropriations biweekly beginning on October 1, 2005, if the Department is not in compliance. Additionally, the Secretary shall take all possible actions to increase the level of cargo screened beyond the level mandated in section 513 of Public Law 108–334 and shall report to the Committees on Appropriations every six months on the actions taken and the quantity of air cargo inspected at each airport.

Section 514. The conferees continue a provision that allows TSA to impose a reasonable charge for the lease of real and personal property to TSA employees.

Section 515. The conferees continue and make permanent a provision that directs that the acquisition management system of TSA be applied to the acquisition of services, equipment, supplies, and materials.

Section 516. The conferees continue and modify a provision related to the transfer of the authority to conduct background investigations from the Office of Personnel Management to DHS, as proposed by the House. The conferees are concerned by delays in personnel security and suitability background investigations, update investigations and periodic reinvestigations for Departmental employees and, in particular for positions within the Office of the Secretary and Executive Management, Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate for Preparedness. The conferees direct that this authority be used to expeditiously process background investigations, including updates and reinvestigations, as necessary.

Section 517. The conferees continue and make permanent a provision that exempts funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under Title III of this Act from the provisions of the Cash Management Improvement Act of 1990.

Section 518. The conferees continue and modify a provision to prohibit the obligation of funds for the Secure Flight program, except on a test basis, until the requirements of section 522 of Public Law 108–334 have been met and the Government Accountability Office (GAO) has reviewed and made certain certifications. The conferees direct the GAO to continue to evaluate DHS and TSA actions to meet the ten elements listed in section 522 of Public Law 108–334 and to report to the Committees on Appropriations, either incrementally as the Department meets additional elements, or when all elements have been met by the Department. The provision also prohibits the obligation of funds for a commercial database that is obtained from or remains under the control of a non-Federal entity, excluding Passenger Name Record data obtained from air carriers.

Section 519. The conferees continue a provision that directs that none of the funds may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

Section 520. The conferees continue a provision regarding competitive sourcing.

Section 521. The conferees continue a provision that none of the funds in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

Section 522. The conferees include a new provision that none of the funds appropriated in this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security, unless the Secret Service is fully reimbursed, as proposed by the Senate.

Section 523. The conferees include a new provision that directs that the data storage facilities at the John C. Stennis Space Center shall hereafter be known as the ''National Center for Critical Information Processing and Storage,'' as proposed by the Senate.

Section 524. The conferees include a new provision that directs the Secretary to develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate, as proposed by the House and modified by the conferees.

Section 525. The conferees include a new provision that directs TSA to utilize existing checked baggage explosive detection equipment and screeners to screen cargo on passenger aircraft when practicable, as proposed by the House. The provision directs TSA to submit a monthly report, starting in August 2005, to the Committees on Appropriations on the amount of cargo carried on passenger aircraft that was screened.

Section 526. The conferees include a new provision that directs that none of the funds available for obligation in this Act be used for the transportation worker identification credential program to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility, as proposed by the House.

Section 527. The conferees include a new provision that rescinds $78,630,689 for Integrated Deepwater System 110- to 123-foot patrol boats conversion found in the United States Coast Guard ''Acquisition, Construction and Improvements'' account, as proposed by the House, and modified by the conferees. The funds are re-appropriated towards the service life extension of Island Class patrol boats and the design, production, and long lead materials of the Fast Response Cutter.

Section 528. The conferees include a new provision that directs the Secretary to utilize the Transportation Security Clearinghouse, which currently processes criminal history background checks for airline and airport employees, as the central identity management system for deployment and operation of the registered traveler program and the transportation worker identification credential program for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a centralized aviation, revocation, and transaction hub for participating airports, ports, and other points of presence, as proposed by the House.

Section 529. The conferees include a new provision that directs that only the privacy officer, appointed pursuant to section 222 of the Homeland Security Act of 2002, may alter, direct that changes be made to, delay or prohibit the transmission of a privacy officer report to Congress, as proposed by the House.

Section 530. The conferees include a new provision requiring only those employees who are trained in contract management to

perform contract management, as proposed by the House and modified by the conferees. The conferees note that an Inspector General's report (OIG–05–18) on the Transportation Security Operations Center found blatant mismanagement and waste of taxpayer dollars. TSA employees managing this contract did not have proper training. The conferees direct the Secretary to ensure that this does not happen in the future.

Section 531. The conferees include a new provision that directs that any funds appropriated or transferred to TSA ''Aviation Security'' and ''Administration'' in fiscal years 2004 and 2005, which are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage and checkpoint screening systems, subject to section 503 of this Act, as proposed by the House and modified by the conferees.

Section 532. The conferees include a new provision regarding the survey and designation of ports of entry in the United States, as proposed by the Senate and modified by the conferees.

Section 533. The conferees include a new provision regarding FEMA's public assistance program and the City of Paso Robles, California, as proposed by the House and modified by the conferees.

Section 534. The conferees include a new provision regarding FEMA's public assistance program and El Dorado County, California, as proposed by the House and modified by the conferees.

Section 535. The conferees include a new provision regarding FEMA's public assistance program and the University of Hawaii, Manoa campus.

Section 536. The conferees include a new provision regarding H2A Visas.

Section 537. The conferees include a new provision on Sensitive Security Information as proposed by the House and modified by the conferees.

Section 538. The conferees provide $40,000,000 for discretionary grants to States to implement the REAL ID Act of 2005 instead of $100,000,000 as proposed by the House and $40,000,000 as proposed by the Senate within the Office of State and Local Government Coordination and Preparedness. These grants, to assist with the implementation of the national standards for drivers' licenses, shall be made at the discretion of the Secretary. Bill language is included requiring the submission of an implementation plan for the responsibilities of the Department of Homeland Security under the recently enacted REAL ID Act of 2005 (Public Law 109–13). This plan should include, but not be limited to, the proposed uses of the funds, and the criteria to be used to approve the extension of deadlines. The conferees include bill language requiring that no less than $6,000,000 be made available for pilot projects to begin immediately in order that lessons learned and best practices might be made available to all States as quickly as possible.

Section 539. The conferees include a new provision that extends the authorization of the Working Capital Fund until October 1, 2006.

Section 540. The conferees include a new provision regarding fees for the registered traveler program.

Section 541. The conferees include a new provision regarding liability protection for certain persons who report a situation, activity or incident.

Section 542. The conferees include a new provision that rescinds $15,000,000 from the Department of Homeland Security Working Capital Fund, instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate under Departmental Management and Operations.

Section 543. The conferees include a new provision that rescinds $5,500,000 from unobligated balances previously appropriated to the Transportation Security Administration, ''Aviation Security''. Of these funds, $3,000,000 shall be rescinded from training and other activities and $2,500,000 shall be rescinded from checkpoint support.

Section 544. The conferees include a new provision that rescinds $6,369,118 from previous Appropriations Acts for the United States Coast Guard ''Operating Expenses'' and ''Acquisition, Construction and Improvements''. The Secretary is directed to advise the Committees on Appropriations on the distribution of the rescission prior to its implementation.

Section 545. The conferees include a new provision that rescinds $8,000,000 from unobligated balances previously appropriated to the Counterterrorism Fund.

Section 546. The conferees include a new provision that rescinds $20,000,000 from unobligated balances previously appropriated to Science and Technology, ''Research, Development, Acquisition, and Operations''. The Secretary is directed to advise the Committees on Appropriations on the distribution of the rescission prior to its implementation.

Section 547. The conferees include a new provision on the Transportation Security Administration's security screening opt-out program.

Section 548. The conferees include a new provision on the weekly reporting requirement directed in Public Law 109–62.

PROVISIONS NOT ADOPTED

The conference agreement deletes section 513 of the House bill requiring the Coast Guard to provide Congress a list of approved but unfunded priorities each year.

The conference agreement deletes section 519 of the Senate bill reflecting the sense of the Senate on border security. This requirement is addressed in the statement of managers.

The conference agreement deletes section 520 of the Senate bill providing emergency funds to the Veterans Health Administration.

The conference agreement deletes section 521 of the Senate bill requiring a report on the steps the Department has taken to comply with the recommendations of the Inspector General's report on the Port Security Grant Program. This requirement is addressed in the statement of managers.

The conference agreement deletes section 522 of the Senate bill requiring the Department to conduct a survey of state and local government emergency officials on homeland security related matters. This requirement is addressed in the statement of managers.

The conference agreement deletes section 523 of the Senate bill requiring a quadrennial review of homeland defense. This requirement is addressed in the statement of managers.

The conference agreement deletes section 524 of the House bill requiring the Department of Homeland Security to submit a security plan to open general aviation at Ronald Reagan Washington National Airport.

The conference agreement deletes section 524 of the Senate bill reflecting the sense of the Senate on rail tunnel security research. This requirement is addressed in the statement of managers.

The conference agreement deletes section 525 of the Senate bill encouraging the Secretary of Homeland Security to designate one agency within the Department of Homeland Security with the responsibility for managing man portable air defense system countermeasures systems.

The conference agreement deletes section 526 of the Senate bill directing the Secretary to provide a detailed accounting of funds made available by Congress to New York City and the State of New York as a result of the September 11, 2001, terrorist attacks.

A report on the transition of Crisis Counseling services from FEMA to New York City is addressed in the statement of managers.

The conference agreement deletes section 527 of the Senate bill requiring a report on the risks and vulnerabilities associated with general aviation. This requirement is addressed in the statement of managers.

The conference agreement deletes section 528 of the Senate bill requiring the submittal of data-mining reports from the head of each Department of Homeland Security agency that is engaged in, or developing, data-mining. This requirement is addressed in the statement of managers.

The conference agreement deletes section 529 of the Senate bill prohibiting the use of funds identified in the Inspector General's Report of March 2005 ''Irregularities in the Development of the Transportation Security Operations Center'' as wasteful. This requirement is addressed in the statement of managers.

The conference agreement deletes section 531 of the Senate bill reflecting the sense of the Senate that the Department of Homeland Security should continue to coordinate with the American Red Cross in developing a mass care plan in the United States. This issue is addressed in the statement of managers.

The conference agreement deletes section 532 of the Senate bill requiring the Department of Defense to submit the overdue report requested in Public Law 109–13.

The conference agreement deletes section 533 of the Senate bill reflecting the sense of the Senate on the vulnerabilities of chemical facilities. This requirement is addressed in the statement of managers.

The conference agreement deletes section 533 of the House bill regarding H1B Visa processing.

The conference agreement deletes section 534 of the Senate bill requiring the Secretary to provide reimbursement guidelines to any county or government entity affected by a hurricane of the costs of hurricane debris removal. This requirement is addressed in the statement of managers.

The conference agreement deletes section 535 of the House bill prohibiting the use of funds to alter the name of Coast Guard Station ''Group St. Petersburg''.

The conference agreement deletes section 535 of the Senate bill requiring a report on changes to emergency preparedness and response policies as a result of the report of the Inspector General dated May 20, 2005. This requirement is addressed in the statement of managers.

The conference agreement deletes section 536 of the House bill prohibiting the use of funds to patrol the border of the United States except as authorized by law.

The conference agreement deletes section 536 of the Senate bill reflecting the sense of the Senate that the Department should conduct a study of the feasibility of leveraging existing FM broadcast radio infrastructure as an emergency messaging system. This requirement is addressed in the statement of managers.

The conference agreement deletes section 537 of the Senate bill requiring the Under Secretary for Emergency Preparedness and Response to propose new inspection guidelines that prohibit inspectors from entering into contracts with any individual or entity for whom the inspector performs an inspection for the purpose of determining eligibility for assistance from the Federal Emergency Management Agency. This requirement is addressed in the statement of managers.

The conference agreement deletes section 538 of the Senate bill, which would prohibit the Departments of Homeland Security and State from issuing regulations to limit United States citizens to a passport as the exclusive document to be presented upon entry into the United States from Canada by land. The proposed rule, as issued for public comment on September 1, 2005, is in compliance with the Senate provision. The conferees expect that the Department will provide alternatives to SENTRI, NEXUS and FAST for residents of small and rural Northern Border communities.

The conference agreement deletes section 539 of the Senate bill directing the Comptroller General of the United States to conduct a study on the justification and effects of raising the Homeland Security Advisory System alert level to Code Orange.

The conference agreement deletes section 540 of the Senate bill reflecting the sense of the Senate on strengthening security at nuclear power plants.

The conference agreement deletes section 541 of the Senate bill reflecting the sense of the Senate regarding threat assessment of major tourist attractions. This requirement is addressed in the statement of managers.

TITLE VI—HOMELAND SECURITY GRANT ENHANCEMENT

The conference agreement does not include Title VI of the Senate bill, ''Homeland Security Grant Enhancement'' as proposed by the Senate. The House bill contained no similar matter.

CONFERENCE RECOMMENDATIONS

The conference agreement's detailed funding recommendations for programs in this bill are contained in the table listed below. The fiscal year 2006 budget request column reflects the Department of Homeland Security's organizational restructuring plan transmitted to Congress on July 13, 2005.

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
DEPARTMENT OF HOMELAND SECURITY		
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS		
Departmental Operations		
Office of the Secretary and Executive Management:		
Immediate Office of the Secretary	2,393	2,393
Immediate Office of the Deputy Secretary	1,132	1,132
Chief of Staff	4,103	4,103
Executive Secretary	5,491	4,131
Office of Policy	25,027	20,713
Office of Public Affairs	9,312	8,312
Office of Legislative and Intergovernmental Affairs	7,107	6,325
Office of General Counsel	11,947	11,267
Office of Civil Rights and Liberties	13,000	13,000
Citizenship and Immigration Services Ombudsman	3,652	3,652
Privacy Officer	3,981	4,381
Regions	49,895	---
Subtotal, Office of the Secretary and Executive Management	137,040	79,409
Office of Screening Coordination and Operations	---	4,000
Office of the Under Secretary for Management:		
Under Secretary for Management	1,867	1,687
Office of Security	61,278	51,278
Business Transformation Office	2,208	1,880
Office of the Chief Procurement Officer	9,020	9,020
Office of the Chief Human Capital Officer:		
Salaries and expenses	8,996	8,900
MAX - HR System	53,000	30,000
Subtotal, Office of the Chief Human Capital Officer	61,996	38,900
Office of the Chief Administrative Officer:		
Salaries and expenses	40,731	40,000
Nebraska Avenue Complex (NAC-DHS Headquarters)	26,070	26,070
Subtotal, Office of the Chief Administrative Officer	66,801	66,070
Subtotal, Office of the Under Secretary for Management	203,170	168,835
Office of the Chief Financial Officer	19,765	19,405
Office of the Chief Information Officer:		
Salaries and expenses	75,756	75,756
Information technology services	110,944	83,444
Security activities	31,000	19,000
Wireless program	86,000	86,000
Homeland Secure Data Network (HSDN)	---	33,029
Subtotal, Office of the Chief Information Officer	303,700	297,229
Analysis and operations	311,180	255,495
Total, Departmental operations	974,855	824,373

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Office of Inspector General		
Operating expenses	83,017	83,017
Total, title I, Departmental Management and Operations	1,057,872	907,390
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS		
U.S. Visitor and Immigrant Status Indicator Technology	---	340,000
Office of Screening Coordination and Operations:		
Management and administration	20,000	---
U.S. Visitor and Immigrant Status Indicator Technology	390,232	---
Secure Flight	94,294	---
FAST	7,000	---
NEXUS/SENTRI	14,000	---
Fee Funded Program:		
TWIC/TSA Credentialing	(100,000)	---
Registered Traveler	(20,000)	---
HAZMAT	(50,000)	---
Alien Flight School (By transfer)	(10,000)	---
Total, Office of Screening Coordination and Operations	(705,526)	---
Appropriations	(525,526)	---
(Fee funded programs)	(180,000)	---
Customs and Border Protection		
Salaries and expenses:		
Management and administration, border security inspections and trade facilitation	656,826	655,000
Management and administration, border security and control between port of entry	593,207	590,000
Subtotal, Headquarters management and admin	1,250,033	1,245,000
Border security inspections and trade facilitation:		
Inspections, trade, and travel facilitation at ports of entry	1,274,994	1,262,269
Harbor maintenance fee collection (trust fund)	3,000	3,000
Container security initiative	138,790	138,790
Other international programs	8,629	8,629
Customs trade partnership against terrorism/ Free and Secure Trade (FAST) NEXUS/SENTRI	54,268	75,268
Inspection and detection technology investments	188,024	63,024
Automated targeting systems	28,253	28,253
National Targeting Center	16,697	16,697
Other technology investments, including information technology	1,018	1,018
Training	24,351	24,351
Subtotal, Border security inspections and trade facilitation	1,738,024	1,621,299

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Border security and control between ports of entry:		
Border security and control	1,464,989	1,742,977
Air program operations	57,971	---
Unmanned aerial vehicles	10,180	---
America Shield Initiative (ASI)	51,084	31,284
Training	22,203	22,203
Subtotal, Border security and control between ports of entry	1,606,427	1,796,464
Air and marine operations, personnel compensation and benefits	136,060	163,560
Subtotal, Salaries and expenses	4,730,544	4,826,323
Automation modernization:		
Automated commercial environment/International Trade Data System (ITDS)	321,690	320,000
Automated commercial system and legacy IT costs	136,319	136,000
Subtotal, Automation modernization	458,009	456,000
Air and marine interdiction, operations, maintenance, and procurement:		
Operations and maintenance	230,682	262,953
Unmanned aerial vehicles	---	10,180
Procurement	62,098	127,098
Subtotal, Air and marine interdiction, operations, maintenance, and procurement	292,780	400,231
Construction:		
Construction (Border patrol)	93,418	270,000
Total, Direct appropriations	5,574,751	5,952,554
Fee accounts:		
Immigration inspection user fee	(464,816)	(464,816)
Immigration enforcement fines	(6,403)	(6,403)
Land border inspection fee	(29,878)	(29,878)
COBRA passenger inspection fee	(334,000)	(334,000)
APHIS inspection fee	(204,000)	(204,000)
Puerto Rico collections	(97,815)	(97,815)
Small airport user fees	(5,234)	(5,234)
Subtotal, fee accounts	(1,142,146)	(1,142,146)
Total, Customs and Border Protection	(6,716,897)	(7,094,700)
Appropriations	(5,574,751)	(5,952,554)
(Fee accounts)	(1,142,146)	(1,142,146)
Immigration and Customs Enforcement		
Salaries and expenses:		
Headquarters Management and Administration (non-Detention and Removal Operations):		
Personnel compensation and benefits, service and other costs	277,572	123,600
Headquarters managed IT investment	134,571	133,104
Subtotal, Headquarters management and administration	412,143	256,704

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Legal proceedings	---	130,181
Investigations:		
Operations	1,215,916	---
Training	17,932	---
Domestic	---	1,195,050
International	---	101,918
Subtotal, Investigations	1,233,848	1,296,968
Intelligence:		
Headquarters Reporting Center	4,988	---
Operations/Operations Center	56,834	---
Intelligence	---	50,970
Subtotal, Intelligence	61,822	50,970
Detention and removal operations:		
Custody management	600,160	---
Case management	166,277	---
Custody Operations	---	1,013,329
Fugitive operations	103,255	102,881
Institutional removal program	70,104	93,969
Alternatives to detention	33,406	28,497
Transportation and removal program	211,266	135,000
Subtotal, Detention and removal operations	1,184,468	1,373,676
Subtotal, Salaries and expenses	2,892,281	3,108,499
Federal protective service:		
Basic security	109,235	109,235
Building specific security (including capital equipment replacement/acquisition)	377,765	377,765
Subtotal	487,000	487,000
Offsetting fee collections	-487,000	-487,000
Automation modernization:		
ATLAS/CHIMERA IT connectivity	40,150	40,150
Construction	26,546	26,546
Total, Direct appropriations	2,958,977	3,175,195
Fee accounts:		
Immigration inspection user fee	(91,621)	(100,000)
Breached bond/detention fund	(71,260)	(87,000)
Student exchange and visitor fee	(66,552)	(66,552)
Subtotal, fee accounts	(229,433)	(253,552)
Subtotal, Immigration and Customs Enforcement (gross)	(3,675,410)	(3,915,747)
Offsetting fee collections	(-487,000)	(-487,000)
Total, Immigration and Customs Enforcement	(3,188,410)	(3,428,747)
Appropriations	(2,958,977)	(3,175,195)
(Fee accounts)	(229,433)	(253,552)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Transportation Security Administration		
Aviation security:		
Screener operations:		
Screener workforce:		
Privatized screening	146,151	139,654
Passenger screener - personnel, compensation, and benefits	1,590,969	1,520,000
Baggage screener - personnel, compensation, and benefits	931,864	884,000
Subtotal, Sceener workforce	2,668,984	2,543,654
Screening training and other:		
Passenger screeners, other	---	23,752
Baggage screeners, other	---	134,794
Screener training	91,004	88,004
Screener other	170,246	---
Subtotal, Screening training and other	261,250	246,550
Human resource services	207,234	207,234
Checkpoint support	157,461	165,000
EDS/ETD Systems:		
Purchase	130,000	175,000
Installation	14,000	45,000
Maintenance	200,000	200,000
Operation integration	23,000	23,000
Subtotal, EDS/ETD Systems	367,000	443,000
Subtotal, Screening operations	3,661,929	3,605,438
Aviation direction and enforcement:		
Aviation regulation and other enforcement	238,196	222,416
Airport management, IT, and support	758,370	686,032
FFDO and flight crew training	36,289	30,500
Air cargo	40,000	55,000
Airport perimeter security	---	5,000
Foreign repair stations	---	3,000
Subtotal, Aviation direction and enforcement	1,072,855	1,001,948
Subtotal, Aviation security (gross)	4,734,784	4,607,386
Offsetting fee collections	-3,670,000	-1,990,000
Total, Aviation security (net)	1,064,784	2,617,386
Surface transportation security:		
Surface transportation security staffing	24,000	---
Enterprise staffing	---	24,000
Hazardous materials truck tracking/training	---	4,000
Rail security inspectors and canines	8,000	8,000
Subtotal, Surface transportation security	32,000	36,000
Transportation Vetting and Credentialing:		
SecureFlight	---	56,696
Crew vetting	---	13,300
Screening administration and operations	---	5,000
Registered Traveler Program fees	---	(20,000)
TWIC fees	---	(100,000)
HAZMAT fees	---	(50,000)
Alien Flight School (by transfer from DOJ) - fees	---	(10,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Subtotal, Transportation Vetting and Credentialing (Gross)	---	(254,996)
Fee Funed Programs	---	(180,000)
Subtotal, Transportation Vetting and Credentialing (net)	---	74,996
Transportation security support:		
Intelligence	21,000	21,000
Administration:		
Headquarters administration	302,781	279,391
Mission support centers	3,051	---
Information technology	210,092	210,092
Corporate training	8,084	---
Subtotal, Administration	524,008	489,483
Subtotal, Transportation security support	545,008	510,483
Federal Air Marshals:		
Management and Administration	616,927	613,400
Travel and Training	71,933	70,800
Air-to-ground communications	---	2,000
Subtotal, Federal Air Marshals	688,860	686,200
Aviation security capital fund	(250,000)	(250,000)
Total, Transportation Security Administration (gross)	6,250,652	6,345,065
Offsetting fee collections	-3,670,000	-1,990,000
Aviation security capital fund	(250,000)	(250,000)
Fee accounts	---	(180,000)
Total, Transportation Security Administration (net)	2,330,652	3,925,065
United States Coast Guard		
Operating expenses:		
Military pay and allowances	3,011,130	3,004,818
Civilian pay and benefits	535,836	531,497
Training and recruiting	178,212	177,130
Operating funds and unit level maintenance	985,309	956,970
Centrally managed accounts	193,936	185,000
Intermediate and depot level maintenance	642,977	636,916
Subtotal, Operating expenses	5,547,400	5,492,331
Rescission (Port Security Assessments, PL 108-11)	---	-15,104
Less adjustment for defense function	-340,000	-1,200,000
Defense function	340,000	1,200,000
Subtotal, Operating expenses	5,547,400	5,477,227
Appropriations	(5,207,400)	(4,292,331)
Rescissions	---	(-15,104)
Defense function	(340,000)	(1,200,000)
Environmental compliance and restoration	12,000	12,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Reserve training	119,000	119,000
Acquisition, construction, and improvements:		
Vessels:		
Response boat medium (41ft UTB and NSB replacement)	22,000	18,500
Aircraft:		
Armed helicopter equipment (Phase I) (legacy asset)	19,902	10,000
Covert surveillance aircraft	---	10,000
C-130J Missionization	5,000	---
Subtotal, Aircraft	24,902	20,000
Other equipment:		
Automatic identification system	29,100	24,000
National distress and response system modernization (Rescue 21)	101,000	41,000
HF Recap	10,000	---
Subtotal, Other equipment	140,100	65,000
Personnel compensation and benefits:		
Core acquisition costs	500	500
Direct personnel cost	75,950	73,000
Subtotal, Personnel compensation and benefits	76,450	73,500
Integrated deepwater systems:		
Aircraft:		
Aircraft, other	125,900	156,000
HH-65 re-engining	133,100	133,100
Subtotal, Aircraft	259,000	289,100
Surface ships	522,400	509,200
C4ISR	74,400	44,000
Logistics	25,200	18,800
Systems engineering and integration	45,000	37,000
Government program management	40,000	35,000
Subtotal, Integrated deepwater systems	966,000	933,100
Shore facilities and aids to navigation:		
Shore operational and support projects	5,000	---
Shore construction projects	3,000	---
Renovate USCGA Chase Hall Barrack, Phase I	15,000	15,000
Replace multi-purpose building - Group Long Island Sound	10,000	10,000
Construct breakwater - Station Neah Bay	2,800	2,800
Waterways aids to navigation infrastructure	3,900	3,900
Subtotal, Shore facilities and aids to navigation	39,700	31,700
Subtotal, Acquisition, construction, and improvements (net)	1,269,152	1,141,800
Alteration of bridges	---	15,000
Research, development, test, and evaluation	---	17,750
Subtotal, U.S. Coast Guard discretionary	6,947,552	6,782,777
Retired pay (mandatory)	1,014,080	1,014,080

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Total, United States Coast Guard	7,961,632	7,796,857
Appropriations	(7,961,632)	(7,811,961)
Rescissions	---	(-15,104)
United States Secret Service		
Salaries and expenses:		
Protection:		
Protection of persons and facilities	572,232	576,316
National special security event fund	5,000	2,500
Protective intelligence activities	55,561	56,215
White House mail screening	16,365	16,365
Subtotal, Protection	649,158	651,396
Field operations:		
Domestic field operations	238,888	238,888
International field office administration, operations and training	19,768	20,968
Electronic crimes special agent program and electronic crimes task forces	35,600	39,600
Subtotal, Field operations	294,256	299,456
Administration:		
Headquarters, management and administration	203,232	203,232
National Center for Missing and Exploited Children	7,100	7,889
Subtotal, Administration	210,332	211,121
Training:		
Rowley training center	46,337	46,337
Subtotal, Salaries and expenses	1,200,083	1,208,310
Acquisition, construction, improvements and related expenses (Rowley training center)	3,699	3,699
Total, United States Secret Service	1,203,782	1,212,009
Total, title II, Security, Enforcement, and Investigations:		
New budget (obligational) authority	20,555,320	22,401,680
Appropriations	(20,555,320)	(22,416,784)
Rescission	---	(-15,104)
Fee Accounts	(1,551,579)	(1,575,698)
TITLE III - PREPAREDNESS AND RECOVERY		
Preparedness		
Preparedness operations:		
Office of the Under Secretary	17,836	---
Office of the Chief Medical Officer	2,000	---
Office of National Capital Region Coordination	1,072	---
Infrastructure Protection and Information Security		
Critical infrastructure outreach and partnership	81,860	---

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Critical infrastructure identification and evaluation	89,593	---
National Infrastructure Simulation and Analysis Center	17,635	---
Biosurveillance	12,817	---
Protective actions	108,076	---
Cyber security	83,086	---
National Security/Emergency Preparedness Telecommunications	163,250	---
Subtotal, Infrastructure Protection and Information Security	556,317	---
Subtotal, Preparedness operations	577,225	---
Management and administration:		
Office of the Under Secretary	---	13,187
Office of the Chief Medical Officer	---	2,000
Office of National Capital Region Coordination	---	892
Subtotal, management and administration	---	16,079
Office for Domestic Preparedness:		
Salaries and expenses	44,300	5,000
State and Local Programs:		
State Homeland Security Grant Program:		
State and Local Basic Formula Grants	1,020,000	550,000
Emergency management performance grants	170,000	---
Citizen Corps	50,000	---
Subtotal, State Homeland Security Grant Program	1,240,000	550,000
Law enforcement terrorism prevention grants	---	400,000
Urban Area Security Initiative:		
High-threat, high-density urban area	1,020,000	765,000
Targeted infrastructure protection	600,000	---
Buffer zone protection program	---	50,000
Port security grants	---	175,000
Rail and transit security	---	150,000
Trucking security grants	---	5,000
Intercity bus security grants	---	10,000
Subtotal, Urban Area Security Initiative	1,620,000	1,155,000
Commerical equipment direct assistance program	---	50,000
National Programs:		
National Domestic Preparedness Consortium	80,000	145,000
National exercise program	52,000	52,000
Technical assistance	7,600	20,000
Metropolitan Medical Response System	---	30,000
Demonstration training grants	---	30,000
Continuing training grants	3,010	25,000
Citizen Corps	---	20,000
Evaluations and assessments	14,300	14,300
Rural Domestic Preparedness Consortium	---	10,000
Subtotal, National Programs	156,910	346,300
Subtotal, State and Local Programs	3,016,910	2,501,300

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Fire Assistance Grants:		
Grants	500,000	545,000
Staffing for Adequate Fire and Emergency Response (SAFER) Act	---	110,000
Subtotal, Firefighter Assistance Grants	500,000	655,000
Emergency management performance grants	---	185,000
Subtotal, Office for Domestic Preparedness	3,561,210	3,346,300
Radiological Emergency Preparedness Program	-1,266	-1,266
U.S. Fire Administration and Training:		
United States Fire Administration	40,441	40,441
Noble Training Center	4,507	4,507
Subtotal, U.S. Fire Administration and Training	44,948	44,948
Infrastructure Protection and Information Security		
Management and administration	---	83,342
Critical infrastructure outreach and partnership	---	112,177
Critical infrastructure identification and evaluation	---	68,500
National Infrastructure Simulation and Analysis Center	---	20,000
Biosurveillance	---	14,100
Protective actions	---	91,399
Cyber security	---	93,349
National Security/Emergency Preparedness Telecommunications	---	142,632
Subtotal, Infrastructure Protection and Information Security	---	625,499
Total, Preparedness	4,182,117	4,031,560
Counterterrorism Fund		
Counterterrorism fund	10,000	2,000
Federal Emergency Management Agency		
Administrative and regional operations	170,240	173,240
Defense function	48,000	48,000
Subtotal, Administrative and regional operations	218,240	221,240
Preparedness, mitigation, response and recovery:		
Operating activities	188,058	184,058
Urban search and rescue teams	7,000	20,000
Subtotal, Preparedness, mitigation, response and recovery	195,058	204,058
Public health programs:		
National disaster medical system	34,000	34,000
Disaster relief	2,140,000	1,770,000
Disaster assistance direct loan program account:		
(Limitation on direct loans)	(25,000)	(25,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Administrative expenses	567	567
Flood map modernization fund	200,068	200,000
National flood insurance fund:		
Salaries and expenses	36,496	36,496
Severe reptitive loss mitigation	---	40,000
Repetitive loss mitigation	---	10,000
Flood mitigation	87,358	99,358
Offsetting fee collections	-123,854	-185,854
(Transfer to National flood mitigation fund)	(-28,000)	(-40,000)
National flood mitigation fund (by transfer)	(28,000)	(40,000)
National pre-disaster mitigation fund	150,062	50,000
Emergency food and shelter	153,000	153,000
Total, FEMA (net)	3,090,995	2,632,865
Total, title III, Preparedness and Recovery:		
New budget (obligational) authority	7,283,112	6,666,425
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out)	(-28,000)	(-40,000)
(By transfer)	(28,000)	(40,000)

TITLE IV - RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES

U.S. Citizenship and Immigration Services

Backlog reduction initiative:		
Contracting services	70,000	70,000
Other	10,000	10,000
Digitization and IT transformation	---	35,000
Subtotal, Backlog reduction initiative	80,000	115,000
Adjudication services (fee account):		
Pay and benefits	(607,000)	(657,000)
District operations	(389,000)	(349,000)
Service center operations	(260,000)	(250,000)
Asylum, refugee and international operations	(74,000)	(74,000)
Records operations	(66,000)	(66,000)
Subtotal, Adjudication services	(1,396,000)	(1,396,000)
Information and customer services (fee account):		
Pay and benefits	(80,000)	(80,000)
Operating expenses:		
National Customer Service Center	(47,000)	(47,000)
Information services	(14,000)	(14,000)
Subtotal, Information and customer services	(141,000)	(141,000)
Administration (fee account):		
Pay and benefits	(44,000)	(44,000)
Operating expenses	(193,000)	(193,000)
Subtotal, Administration	(237,000)	(237,000)
Total, U.S. Citizenship and Immigration Services	(1,854,000)	(1,889,000)
Appropriations	(80,000)	(115,000)
(Immigration Examination Fee Account)	(1,730,000)	(1,730,000)
(Fraud prevention and detection fee account)	(31,000)	(31,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
(H1B Non-Immigrant Petitioner fee account)..	(13,000)	(13,000)
Federal Law Enforcement Training Center		
Salaries and expenses:		
Salaries and expenses.....	183,362	194,000
Acquisition, Construction, Improvements, and Related expenses:		
Direct appropriation.....	40,636	88,358
Total, Federal Law Enforcement Training Center..	223,998	282,358
Science and Technology		
Management and administration:		
Office of the Under Secretary for Science and Technology.....	---	6,479
Other salaries and expenses.....	81,399	74,620
Subtotal, Management and administration.....	81,399	81,099
Research, development, acquisition, and operations:		
Biological countermeasures:		
Operating expenses.....	23,300	23,300
Defense function.....	339,000	356,700
Subtotal, Biological countermeasures.....	362,300	380,000
Chemical countermeasures.....	102,000	95,000
Explosives countermeasures.....	14,700	44,000
Threat and vulnerability, testing and assessment..	47,000	43,000
Conventional missions in support of DHS.....	93,650	80,000
Rapid prototyping program.....	20,900	35,000
Standards.....	35,500	35,000
Emerging threats.....	10,500	8,000
Critical infrastructure protection.....	20,800	40,800
University programs/homeland security fellowship..	63,600	63,000
Counter MANPADs.....	110,000	110,000
Safety act.....	5,600	7,000
Cyber security.....	16,700	16,700
Office of interoperability and compatibility.....	20,500	26,500
Research and development consolidation.....	116,897	99,897
Radiological and nuclear countermeasures.....	19,086	19,086
Domestic Nuclear Detection Office.....	227,314	318,014
Subtotal, Research, development, acquisition, and operations.....	1,287,047	1,420,997
Total, Science and Technology.....	1,368,446	1,502,096
Total, title IV, Research and Development, Training and Services:		
New budget (obligational) authority.....	1,672,444	1,899,454
Fee Accounts.....	(1,774,000)	(1,774,000)
TITLE V - GENERAL PROVISIONS		
Sec. 527:		
Rescission, 110-to-123 Conversions (P.L.108-11, P.L. 108-90 and P.L. 108-334).....	---	-78,631

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
110ft Island Class Patrol Boat procurement or refurbishment	---	78,631
Sec 538: REAL ID Grants	---	40,000
Rescissions, sec. 542 through 546:		
Sec. 542: Working Capital Fund	---	-15,000
Sec. 543: Transportation Security Administration aviation security (P.L. 108-34)	---	-5,500
Sec. 544: Coast Guard operating expenses and acquisition, construction, and improvements (P.L 105-277, 106-69, 107-87, and 108-90)	---	-6,369
Sec. 545: Counterterroism Fund (P.L. 108-90)	---	-8,000
Sec. 546: Science and technology research, development, acquisition, and operations (P.L. 108-334)	---	-20,000
Subtotal, Rescissions, sec. 542 through 546	---	-54,869
Total, title V, General Provisions:		
New budget (obligational) authority	---	-14,869
Grand total, Department of Homeland Security:		
New budget (obligational) authority	30,568,748	31,860,080
Appropriations	(30,568,748)	(32,008,684)
Rescissions	---	(-148,604)
Fee funded programs	(3,325,579)	(3,349,698)
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out)	(-28,000)	(-40,000)
(By transfer)	(28,000)	(40,000)

CONFERENCE TOTAL—WITH COMPARISON

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follow:

[in thousands of dollars]

New budget (obligational) authority, fiscal year 2005	$100,210,103
Budget estimates of new (obligational) authority, fiscal year 2006	30,568,748
House bill, fiscal year 2006	31,860,080
Senate bill, fiscal year 2006	33,360,080
Conference agreement, fiscal year 2006	31,860,080
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	−68,350,023
budget estimates of new (obligational) authority, fiscal year 2006	+1,291,332
House bill, fiscal year 2006	+0
Senate bill, fiscal year 2006	−1,500,000

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JOANN EMERSON,
JOHN E. SWEENEY,
JIM KOLBE,
ERNEST J. ISTOOR, JR.,
RAY LAHOOD,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
CHET EDWARDS,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE DOMENICI,
RICHARD C. SHELBY,
LARRY CRAIG,
ROBERT F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Missouri (Mr. BLUNT), the leader, for the purpose of informing us of the schedule for the week to come.

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Maryland for yielding to me, and while I am the temporary majority leader, I am still the whip and always am glad to be called the whip and to refer to the gentleman as the whip.

Mr. Speaker, the House will convene Thursday at 10 a.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of those bills will be sent to Members by the end of this week.

We will also consider two measures under a rule, H.R. 2360, the Department of Homeland Security Appropriations Act for fiscal year 2006, and the Gasoline for America's Security Act of 2005.

Mr. HOYER. Mr. Speaker, I thank the distinguished majority whip and acting leader.

Mr. Leader, so that Members can be certain as to the schedule for next Thursday and Friday, on Thursday the House will begin business at 10 a.m., I understand, with no votes to occur before 2 p.m., and we will consider suspension bills and the conference report on the Homeland Security appropriations bill, and then the House will meet on Friday at 9 a.m. to consider the energy bill. Is that accurate?

Mr. BLUNT. If the gentleman will continue to yield, that is accurate at this point. We have not finalized the absolute sequence of bills, but that is our plan at this time. And the one reason we are starting at 10 a.m. on Thursday is to try to finish our work, even though it is an abbreviated workweek, in a reasonable amount of time.

Mr. HOYER. Reclaiming my time and thanking the gentleman, Mr. Speaker, if the gentleman could tell us, because we have discussed with our Members from California, from Washington State, Oregon, and others, if they take a 7:40 a.m. plane, they do not get here much before 4 or a little after 4. Therefore, if those votes are started at 2 p.m., that requires some of our Members to leave the night before.

Some of our Members, as you know, because of their religious observance, cannot leave until after sundown, requiring them to take the red-eye. I discussed this with the gentleman from Texas (Mr. DELAY) last week, and I am wondering whether or not, because I am sure Members on your side, well, I guess they do not, now that I think about it, have similar problems. But the fact of the matter is that it causes some difficulty for our Members traveling. I wonder if there is a possibility of starting at 10, continuing debate, but rolling votes until after 5 rather than after 2.

Mr. BLUNT. I think the gentleman did have extensive discussion on this last week. I know this week really created a number of challenges for us because of those religious holidays. I believe we have accommodated those in the best way we can and still get Members out of here at a reasonable hour on Friday. And for that reason I think those votes that could be as early as 2 are important in our efforts to get Members on the road Friday.

And, again, our California Members always have so many of the challenges in travel, but I think this plan accommodates that. I certainly wish we could have perhaps not even come in for these days, but I think the work we have to do on these 2 days is so significant that we do need to come back. And if we do not get started early on Thursday, we will have another problem on Friday with Members who want to get back for what turns out to be a holiday weekend for many of them.

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

Mr. HOYER. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. When we talk about all the Members from California, occasionally some Members there think the western-most county is Hawaii, of California, but I think those of us either from California, the far west in general, and even further west, out in Hawaii, have seldom, if ever, complained about having to make the votes in late afternoon on a Monday or a Tuesday or a Thursday or whatever. But I would just plead for this, and I appreciate the gentleman's yielding to me, but if the gentleman could give those of us west of the Mississippi the opportunity to come and vote, say after 4:30, or about 4:30 or 5, we can do it.

Other than that, it really changes the entire day and night, in my instance the night before, because I come directly from the plane to vote, and many Members of the California, Oregon, Washington, and even some of the other western States who have interconnections they have to make north and south before they come east have to do that.

That is the only reason we ask about that. Maybe we could start a little earlier on Friday and still accommodate what needs to be done. But it is not self-indulgent, it is really a practical question of scheduling.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I thank the gentleman for his comments, and perhaps the gentleman and I can discuss this after the colloquy.

Mr. BLUNT. Mr. Speaker, I would be glad to discuss it further. At the same time, I do think that this particular week and the way the holidays fell in this week have created a unique set of circumstances, and our planning for those have been a challenge, there is no question about that.

Mr. HOYER. I appreciate those problems. Perhaps we will discuss that. I

believe that starting at 10 makes sense. I understand we want to use all of the time that is available that day, so I am not suggesting that we change that. It is the time when we start votes, and then I am sure there will be a series of votes at some point in time that evening, as we have every Tuesday when we return at night.

But perhaps we can discuss it a little further after the colloquy, and then perhaps, if there is any change, inform Members of that change.

Regarding the energy bill, under what type of rule would the gentleman expect that to be considered; and how late would the gentleman expect votes to go on Friday? First of all, the energy bill and the kind of rule the gentleman expects on the energy bill.

And I say that to my friend in the context, as the gentleman knows, that the bill was introduced Monday of this week. It is my understanding there were 16 hours of markup yesterday, going until 1 a.m. this morning. So there has been little time, really, to review this bill.

Obviously, there will be over the week, and we will not get back until Thursday, so there will be that time. But can the gentleman tell us what kind of rule he might expect on that bill? I yield to my friend.

Mr. BLUNT. I appreciate the gentleman yielding, and I appreciate the question. In fact, I serve on that committee and that committee was voting until after midnight last night.

The bill is available and will be available for Members to look at during the week. In terms of the rule, we will have to defer that, I think, to the Committee on Rules, and I expect they will go through their normal evaluation of the bill and determine the rule at that time.

In terms of Friday, we are really trying to move to the earliest possible conclusion on Friday, which is one of the reasons, again, to try to be sure we are getting our work done on Thursday. Another reason for Thursday, not only the 10 a.m. start but the effort for Members to return, is I know a number of chairmen are hoping to take advantage of that day in their committees as well. And our friends from the west coast would want to be and I hope are able to be part of that.

Mr. HOYER. I thank the gentleman for that information, and I am sure the Members will be pleased about that objective as well.

The week of October 17. I know that is some time away, but we will not be having a scheduling colloquy next Friday, probably. Can you give us any indication as to what bills may be on the floor?

Mr. BLUNT. We have not finalized our plan for the week of October 17 yet, Mr. Speaker, but there are a number of litigation reform bills coming out of the Judiciary Committee. I think those are likely candidates for that week, and there may be some other legislation develop. But those bills from the Committee on the Judiciary are likely to be ready and be coming to the floor that week.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

APPOINTMENT OF HON. MAC THORNBERRY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH OCTOBER 6, 2005

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

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 2005.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 6, 2005.

J. DENNIS HASTERT,
Speaker of the House of Representatives

The SPEAKER pro tempore (Mr. THORNBERRY). Without objection, the appointment is approved.

There was no objection.

APPOINTMENT OF MEMBERS TO CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276d, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Canada-United States Interparliamentary Group in addition to Mr. MANZULLO of Illinois, Chairman, and Mr. MCCOTTER of Michigan, Vice Chairman, appointed on March 8, 2005:

Mr. OBERSTAR, Minnesota
Mr. SHAW, Florida
Ms. SLAUGHTER, New York
Mr. STEARNS, Florida
Mr. ENGLISH, Pennsylvania
Mr. SOUDER, Indiana
Mr. TANCREDO, Colorado
Mr. LIPINSKI, Illinois

NOTIFICATION TO CONGRESS REGARDING PROPOSED USE OF PUBLIC SAFETY FUNDS PROVIDED TO DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–58)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

The SPEAKER pro tempore laid before the House the following message

To the Congress of the United States:

Consistent with title I of the District of Columbia Appropriations Act, 2005, Public Law 108–335, I am notifying the Congress of the proposed use of $10,151,538 provided in title I under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia.'' This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH.
THE WHITE HOUSE, *September 29, 2005.*

IN HONOR OF CONGRESSMAN TOM DELAY

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

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in strong support of the gentleman from Texas (Mr. DELAY).

Congressman TOM DELAY has been one of the most effective leaders in the history of the House of Representatives. Under his leadership, over 4 million Americans have found new jobs, Medicare beneficiaries have gained prescription drug coverage, and U.S. troops have received unprecedented support to protect American families. I am proud of his accomplishments and grateful for his service.

While Congressman DELAY's effectiveness has greatly helped American families, it has unfortunately motivated his critics. By issuing an indictment yesterday against Mr. DELAY, liberal Democrat Ronnie Earle is demonstrating politics at its worst by politicizing his position as prosecutor and is continuing his personal vendetta against Republican leaders.

In 1994, Earle indicted U.S. Senator Kay Bailey Hutchison, and his charges were proved false. I am confident that Congressman DELAY will also be vindicated from this blatant partisan attack.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the possible resumption of legislative business.

□ 1745

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. THORNBERRY). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from 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.)

CONGRATULATING ST. MARY'S COLLEGE OF MARYLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, one of the biggest cliches in sports is that you do not want your team to be number two.

However, the same does not hold true in other areas. That is why today I want to congratulate the entire St. Mary's College of Maryland community, including the students, alumni and parents and President Margaret O'Brien and the extraordinary faculty, for being ranked the number two public liberal arts college in the Nation.

Mr. Speaker, it will surprise no one that St. Mary's College is in my district. Furthermore, for full disclosure, I am on the board of trustees of St. Mary's College. It is an extraordinary institution of higher learning.

In fact, according to the latest college rankings by the magazine U.S. News and World Report, St. Mary's College is again one of the top 100 liberal arts colleges in the Nation, rising to 84 from 87 the year before. So not only is it number two of small colleges; it is number 84 in the entire Nation of all colleges.

When it comes to public liberal arts colleges, St. Mary's finished only behind the Virginia Military Institute in the U.S. News rankings.

Those rankings are based upon several criteria of academic excellence, including graduation and retention rates, faculty resources and peer assessment.

And this year, St. Mary's peer assessment rose to 2.9 out of a possible 5.0, and the freshmen retention rate rose to 88 percent.

Mr. Speaker, with roots going back to 1840, St. Mary's College is the State of Maryland's only public honors college, offering the academic excellence of a top private college with the openness and affordability of public education.

Today, about 1,950 men and women from 35 States and 23 countries attend St. Mary's, and the average SAT score for the entering freshmen is 1,252. The faculty also has distinguished itself, and more than 94 percent hold doctorate degrees.

By combining the virtues of public and private education, St. Mary's provides a unique alternative for students and their families. This special identity underpins the college's success and its reputation for excellence, in a waterfront setting in the heart of the Chesapeake Bay region just 70 miles southeast of Washington. It is an extraordinarily beautiful setting for an extraordinarily excellent college.

Mr. Speaker, as a member of the college's board of trustees since 1995, I have seen this wonderful institution flourish over the last decade, and I am particularly pleased to see St. Mary's is winning national recognition among it peers. This is not the first time that has been the case, but it is a continuing affirmation of the excellence at St. Mary's.

Our 34th President, John F. Kennedy, once said: ''Education is the mainspring of our economic and social progress. It is the highest expression of achievement in our society, ennobling and enriching human life.''

Mr. Speaker, St. Mary's College of Maryland truly enriches southern Maryland and our entire State. I want to congratulate the entire St. Mary's College community on receiving this latest national recognition. Well done, well deserved.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. STUPAK. Mr. Speaker, I ask unanimous consent to give my Special Order speech at this time.

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

There was no objection.

PRICE GOUGING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, I would like to talk about the markup we had last night in the Committee on Energy and Commerce on the energy bill. The purpose of the energy bill being brought forth by the Republican majority is to address price gouging. We would like to see the price of gasoline go down; and certainly with the excessive profits being demonstrated by the oil companies, especially the refinery companies, we have to do something instead of being gouged at the gas pump.

So last night the committee worked some 16 hours, until well after midnight. What we found was this. This chart was in The Washington Post last Sunday. The price of a gallon of gas in 1 year, the price to take it out of the ground, domestic and foreign countries pump crude from the ground, has increased 46 percent in 12 months.

The refiners, refineries process crude oil and a variety of products, including gasoline. In 1 year, their profit or their increase is 255 percent.

Down here are the distributors. They ship the gasoline from the terminal by truck to the gas station. Their cost has only gone up 5 percent. The end result is in the last 12 months, gas has gone up 64 percent for the American consumer. Even State, Federal, and local taxes have only gone up 2 pennies, a negligible increase.

When Members look at the chart, if we want to try to control the price of gasoline, you have to look at the crude oil producers and definitely the refiners at a 255 percent increase in their costs and price to a gallon of gas in the last 12 months.

So what happened last night in committee?

The Democrats said let us take a look at the Republican bill that we just saw. What they did was this, and we almost defeated it. It was a 26–24 vote. We lost by two votes. It is a bill we will be discussing next week on the floor.

The Republicans said we are not going to go after the producers; they can make a 46 percent profit in 12 months. We are not going to go after the refiner; they can make a 255 percent increase profit in 12 months. We are going after the gas station dealer, the one at 5 percent. If they increase their profits more than 10 percent, we are going after the gas station operators, but not all gas station operators, only ones located in the area where the President has declared a disaster.

The Republican bill basically says this, we have two disasters in this country, Hurricane Katrina and Hurricane Rita. So parts of Texas, Alabama, Mississippi and Louisiana, they cannot increase their price for gasoline. But the rest of the Nation and north Louisiana, north Alabama, north Mississippi and north and west Texas, they can still increase their prices, no control. They can gouge 255 percent, 46 percent and that is okay under our bill. We are only concerned about the gas station owner who has the least amount to say about the cost of a gallon of gas.

So once again Big Oil wins out. Big refineries win out, and the poor person trying to make a penny off a gallon of gas at the gas station is going to get nailed by the majority party's legislation.

The Democratic side has our legislation, Free Us From Price Gouging. In our bill we apply all of the way down the chain here every type of oil product: home heating oil, propane, natural gas, gasoline. It all comes under our price gouging legislation. We apply it to producers, refiners, and retailers. We take them all into consideration. We apply our price gouging to the entire Nation.

This winter the Midwest is going to pay a 71 percent increase in the price of natural gas. Underneath the Republican bill, there is nothing you can do about it because it only applies to gasoline and diesel. Under the Democratic bill, we can see if there is excessive profits, then you have a right to do something about price gouging.

Under the Democrats' bill, we are going to have the FTC define what

price gouging is and what factors go into it and then apply it to the facts of this case. We are after excessive profits like 255 percent in 12 months or 46 percent in 12 months, not the person who makes 5 percent in 12 months. And we want it to apply throughout the Nation, not just at the time of disaster and in the area affected by the disaster.

We provide the FTC with the right and authority to watch market manipulation. The majority party is silent on that fact.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE 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 Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY 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 address the House out of order.

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

There was no objection.

IRAQ AND PRISONER ABUSE

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, 8 months ago standing outside this dome, the President of the United States spoke these words as he was sworn in for a second term: ''We will persistently clarify the choice before every ruler and every nation, the moral choice between oppression, which is always wrong, and freedom which is eternally right. All who live in tyranny and hopelessness can know the United States will not ignore your oppression or excuse your oppressors.''

Beautiful words, honorable sentiments, if only the Bush administration were conducting this war in Iraq in a way that actually reflects those values.

Last week, Human Rights Watch released a report that details once again how Iraqi war prisoners were subjected to acts of sadistic cruelty at the hands of their supposed liberators. This time it was at Forward Operating Base Mercury, where beatings and other forms of humiliation took place on a daily basis for several months. Often, this was not even about interrogation or securing some vital piece of national security. ''In a way, it was sport,'' said one sergeant in the 82nd Airborne, a way to ''work out your frustration.''

□ 1800

What is perhaps most tragic is that our soldiers who have committed these acts are themselves victims as well, victimized by their incompetent and amoral superiors who give a wink and a nod to torture and then blame it on a few bad apples. One officer in the 82nd Airborne, Captain Ian Fishback, was appalled by the prisoner abuse and tried in vain for a year and a half to get some clarification from his superiors about how prisoners should be treated, given that the administration had essentially tossed the Geneva Conventions in the trash can. He got no answers because the Pentagon seemed to want the abuse to continue but did not want to take any responsibility for it.

That is how it works with this crowd: The powerless take the fall while the high-level decisionmakers who make bad decisions are left in place to make more bad decisions. So it is that Lynndie England faces jail time for her conduct at Abu Ghraib while Tommy Franks gets the Presidential Medal of Freedom.

The prisoner abuse episode is consistent with everything else about the way this war has been handled. It indicates both a moral blind spot and a staggering incompetence that has cost nearly 2,000 Americans their lives. The Bush administration had no plan for how to conduct this war, they had no plan for securing the country once Saddam was deposed, and now they have no plan for ending the war. We need a compassionate and we need a viable exit strategy, one that ends the occupation but still gives us a constructive role in the rebuilding of Iraqi society. If the President will not do it, we will. If the President will not lead, we will.

Two weeks ago, I held an informal bipartisan hearing to discuss plans to withdraw our troops and end the war. We heard from a panel of Middle East experts and military strategists, just the kind of people George Bush should have listened to along his march to war, all of whom testified about the need for a change in U.S. policy in Iraq. The hearing was not about endorsing one particular approach. My goal was to put ideas on the table, to start a conversation that the Nation wants and the Nation deserves. Two-thirds of the American people disapprove of the President's handling of Iraq, and yet it has been some sort of taboo around this place to discuss troop withdrawal. The American people are way ahead of Congress on this. It is about time we caught up, it is about time we realized

RESPONSE TO SECRETARY BENNETT'S COMMENTS

The SPEAKER pro tempore (Mr. WESTMORELAND). Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, this evening I rise to express my deep disdain and disgust for comments made yesterday on his radio show by former Secretary of Education William Bennett.

He said, and I quote, ''You could abort every black baby in this country and your crime rate would go down. That would be an impossible, ridiculous, and morally reprehensible thing to do, but your crime rate would go down.''

These are shameful words, Mr. Speaker. I am appalled to have to say them on the floor of the House of Representatives. Secretary Bennett's words reflect a narrow-minded spirit that has no place within American discourse. These words do not reflect the values of hope and opportunity for the future, they do not reflect the values of the American people, Democrat or Republican. Secretary Bennett does not reflect American mainstream values; he did not when he was Secretary of Education and he does not now. Leaders are called to higher standards than Secretary Bennett has demonstrated. We have a responsibility to lead, to be an example.

As Americans feel the pain of two hurricanes, as Americans still reel from questions about the role that race and poverty played in the government response to these devastating hurricanes, we must stand sentry against any hint of racism, any indication of injustice, any moment of intolerance. Now is not the time for divisive comments, now is the time for coming together, now is the time for healing.

What could possibly have possessed Secretary Bennett to say those words, especially at this time? What could he possibly have been thinking? This is what is so alarming about his words.

I urge President Bush to renounce his statement, and I call on Secretary Bennett to apologize. I encourage my Republican colleagues to join me on the House floor to reject these words and to speak for a future of tolerance and equality. I invite Secretary Bennett and other Republicans to join Democrats in creating solutions to national problems and meeting national needs. It is very sad, because children do study the words that are said on the floor of the House of Representatives, and these words are very shameful.

But words are shameful, too, that deny children the education they need, the health care they deserve, economic security for their families, a clean environment where they have clean air and clean water and safe food to eat; and when we deprive them of that we are insulting them, but these words are a direct hit at them. Secretary Bennett is a writer. He knows that words have

power. He knows how powerful these particular words are. An apology is definitely in order, and a rejection of these remarks also is in order from the President of the United States.

KATRINA UNEARTHS DISASTROUS FISCAL STATE OF COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, almost a year ago, I spoke on this House floor warning of the dangers posed by the latest effort of the majority party to raise the debt limit for the third time during this administration to a whopping $8.18 trillion.

I used the occasion to contrast the fiscal policies of the Clinton administration, namely, turning the largest budget deficits in history to the largest budget surpluses in history, with the fiscal policies of the current administration. However, my protestations and the warnings of my fellow Blue Dog Democrats continued to fall on deaf ears.

It is inconceivable that deficits soaring as far as the eye can see, mounting debt, and the skyrocketing costs of military operations in Iraq and Afghanistan would be ignored for so long and that it would take a tragedy such as Hurricane Katrina to finally serve as a wakeup call. For years members of the Blue Dog Coalition have warned that we were spending money we did not have, that the administration had no economic plan, and that massive untargeted tax cuts were not a substitute for an economic blueprint for our country's future. And yet the Congress continued to reject every proposal requiring us to do our budget in the same way that our constituents do, by paying as we go.

Now that Hurricanes Katrina and Rita have wreaked havoc on the gulf coast, causing hundreds of billions of dollars of damage, it is clear that we must take immediate action to get our fiscal house in order. Members on the other side of the aisle have finally acknowledged what Democrats have been saying for years, that our current economic policies cannot be maintained. Unfortunately, however, some in the majority party have proposed that we ask those Americans who have been impacted most by Katrina, namely, the elderly and those with low incomes, to bear the costs.

This is not the answer to the persistent poverty exposed so brutally and graphically by Katrina. We must pursue a comprehensive solution to our fiscal woes by suspending tax cuts for wealthy families, by cutting spending, and enacting PAYGO rules, pay-as-you-go, and establishing an emergency rainy day fund.

Mr. Speaker, the 2005 budget resolution included $106 billion in new deficit finance tax cuts over the next 5 years. These additional tax cuts will impose a huge additional debt burden on the next generation. If the government is forced to borrow the money to cover these added expenses, the yearly interest payments alone will pile on the already enormous debt that our children and grandchildren will be faced with paying off.

Most of these tax cuts will actually be doled out to individuals who do not need more of the government's largesse. With American troops in combat in Iraq and Afghanistan and with our country coping with the rebuilding of the gulf coast, all of us, all of us, must sacrifice for our troops and for our neighbors.

In addition to suspending tax cuts for wealthy families, the Congress must immediately restrain its voracious appetite for spending, finding places where cuts can be made to pay the costs of Katrina and Iraq. And in addition to making tough cuts, the Congress should move to immediately reinstate PAYGO rules to stop any further bleeding.

Finally, the Congress must establish a rainy day fund for future Katrinas so we will not find ourselves in this spot again. The interest earned by such a fund could be used for disaster planning and preparedness, to modernize our Nation's infrastructure, fortify our levees, and to update and make interoperable our communications systems.

The American people now understand the precarious state of the Nation's finances. Today our national debt stands at nearly $8 trillion. Each citizen's personal share of that debt is almost $27,000. This is what we bequeath to our children, and it conflicts most directly with what my parents taught me and what most of our parents taught all of us, that is, we leave the country a little better off than we found it.

In 1989, a New York City real estate developer named Seymour Durst placed a large National Debt Clock in Times Square in order to draw public attention to what he saw as a grim predictor of financial instability. For 11 years, the debt numbers on the clock rose at the breakneck pace of $13,000 a second. In 1995, as the Clinton administration began to pay down the national debt, onlookers were shocked to see the numbers on that clock not only slow down but reverse. The clock was retired in the year 2000, as President Clinton announced record reductions in the national debt.

Mr. Speaker, unfortunately, no debt clocks were at work this time drawing attention to this crisis. It has taken Katrina to awaken the Nation to the coming fiscal crisis. Let us hope our response to this crisis is an improvement on our response to the last. We owe that to our kids.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

(Mr. NORWOOD 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 Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DeFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mrs. DAVIS of California. 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.

RECOGNIZING DONNA SMITH ON HER RETIREMENT AS LEGISLATIVE COUNSEL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. DAVIS of California) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I rise today to commemorate the end of a distinguished career and yet the beginning of new ad ventures and horizons.

This week my legislative counsel Donna Smith is retiring from my congressional office, ending an extensive and dedicated career of public service.

For the past 5 years in Washington, Donna has handled what she referred to as the three Es: education, energy, and the environment, as well as many other issues.

Donna is a California native born in Los Angeles. Her family soon relocated to San Diego. And what would be L.A.'s loss became San Diego's gain.

She graduated from Pomona College and received a teaching credential from UC Berkeley and began an 18-year teaching career. She instructed students in English, social studies, journalism, and history. She taught at the San Diego Unified School District and served as the junior high school principal and teacher for the San Diego Jewish Academy. During these years of mentoring and teaching, Donna was also active in the community and began her interest in public policy and politics.

Our association together began as members of the League of Women Voters where she served as the League's vice president from 1973 to 1977.

She helped introduce me to the issues I came to embrace and to the invaluable discourse of pro-con discussions for which the League is well known. At the same time, we were all building long-lasting relationships.

In 1992, Donna was appointed by San Diego Mayor Maureen O'Connor as a member of the San Diego City Council Elections, Campaign, and Government Advisory Board. And as a member of the board, she was instrumental in formulating a proposal for a San Diego ethics commission.

Donna holds a myriad of other interests beyond creating sound public policy. She loves music; travel; the arts;

and, of course, spending time with her three grandchildren. And when most of us are content cruising through life with our careers and family, Donna's love of learning and public policy motivated her to get her legal degree from UCLA in 1996.

□ 1815

Before I came to Congress, Donna served as my chief of staff in my final two terms as a member of the California State Assembly. Any chief of staff who oversees a district and legislative office knows that job has its rewards, but also many challenges. As I transitioned to Congress, Donna came east to Washington to fulfill a longtime goal of developing public policy, a job she is well suited for. She has an ability to put her arms around an issue and see all sides of it. Instead of sound bites, Donna is always able to see the whole picture.

She has been so much more than a trusted adviser on the issues. She has been a partner in crafting legislation on teacher quality, improving curriculum, promoting renewable energy, protecting open spaces in San Diego, and negotiating the complex issues of the 2000 electricity crisis in San Diego.

In the midst of immersing herself in politics and policy, Donna has also immersed herself in the cultural and artistic endeavors that Washington has to offer, as she did in San Diego.

She is not only a multitasker, but a multi-talented renaissance woman. From playing her cello, to singing in the choir at the National Cathedral, to traveling to such exotic locales as Egypt, New Zealand and India, it can certainly be said that Donna has not let life pass her by.

Many of us in Congress know that a good staff is the key component to our ability to create public policy, and Donna has been such a vital asset to my office and to my successes as a public servant. Donna has been more than an invaluable member of the staff; she has been a good and loyal friend.

She not only will be missed in our office. I am sure she will go on and be envied by all of us. As we are all heading off to work next week, Donna will continue to travel, to sing, to play and taste the flavors life has to offer. And in the middle of all that, she will find and give great joy as the consummate grandparent. And knowing Donna, she will be an active player in making our country and the world a better place to live.

I hope my colleagues will join me in recognizing the years of hard work and public service that Donna Smith has provided to San Diego, to California, to the Congress, and to our Nation.

Thank you, Donna.

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

(Mr. GINGREY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

CONDEMNING REMARKS OF WILLIAM J. BENNETT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, this evening I rise before this House condemning the words spoken yesterday by former Secretary of Education William Bennett. It is truly reprehensible that as we try to heal the wounds that were laid bare following the disaster of Hurricane Katrina, that powerful elements in the Republican Party still insist on espousing racial rhetoric while trying to divide Americans based on the color of their skin.

I was shocked, I was appalled that the former Secretary of Education, William Bennett, a prominent member of the Republican Party, would go on public radio and say, ''But I do know that it is true that if you wanted to reduce crime, you could, if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down.''

Mr. Speaker, as a proud black American who was honorably discharged from the U.S. Army, I know that this is precisely the kind of insensitive, hurtful, and ignorant rhetoric that Americans have grown tired of.

Mr. Speaker, Mr. Bennett still has power and influence within this Republican administration; and he is representative of the ignorant, inconsiderate politics that have been displayed in this government today. And I am calling on my friends, the responsible Republicans, to rebuke Mr. Bennett for his damaging statement.

Where is the indignation from the GOP, as one of their prominent members talks about aborting an entire race of Americans as a way of ridding this country of crime? How ridiculous. How asinine. How insane can one be?

Mr. Bennett's remarks were thoughtless, mean-spirited, and well, well off the mark. We all know that aborting black babies would not decrease or erase the crime rates in this country. Aborting the Republican policies which have hurt the disadvantaged, the poor, and average Americans for the benefit of large corporations would be a much more sane and reasonable way to address crime and poverty in this Nation.

Americans are sick of the poisonous, divisive atmosphere that is prevalent in this Republican era. Americans want reform. Americans want change. Americans want an end to the culture of corruption and bitterness that the Republican Party and this House have come to embody.

It is ironic that the same people who promised America that they would clean up the system 11 years ago, have used their power and influence to benefit their own agenda and defile the

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

(Mr. GOHMERT 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 New York (Mr. ENGEL) is recognized for 5 minutes.

(Mr. ENGEL 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 Arizona (Mr. FRANKS) is recognized for 5 minutes.

(Mr. FRANKS of Arizona addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THANKING THE PEOPLE OF KAZAKHSTAN FOR THEIR ASSISTANCE TO AMERICA AND THE WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. MELANCON) is recognized for 5 minutes.

Mr. MELANCON. Mr. Speaker, Hurricane Katrina has caused not only colossal damage to the economy of Louisiana and the entire gulf coast but she has also taken away hundreds of innocent lives and left thousands homeless. As the Representative of the Third Congressional District of Louisiana, half of which was leveled by this disaster, I would like to express my sincere gratitude to those who have responded to this American calamity. I would especially like to thank the people of the Republic of Kazakhstan and their president, Nursultan Nazarbayev, for the condolences and readiness to render financial assistance to Katrina's victims.

No one can have too many friends, and that applies to both countries and individuals. The history of the United States and Kazakhstan's cooperation is a vivid example of a partnership between true friends and allies with shared values.

Kazakhstan inherited the world's fourth largest nuclear arsenal from the Soviet Union but choose not to keep that lethal legacy, which could have automatically placed Kazakhstan among the world's nuclear superpowers. Instead, the people of

Kazakhstan, led by their president, chose the path of peaceful development and, together with the United States, dismantled these weapons of mass destruction. That was a worthy move of a strategic partner.

After the tragic events of September 11, Kazakhstan unhesitatingly and unconditionally supported the United States and declared its full assistance in the war on terrorism. That was a demonstration of sincerity and steadfastness of the people of Kazakhstan.

As the only country from Central Asia to send its military contingent to Iraq, Kazakhstan, despite some wavering among other coalition members, has repeatedly stated that it remains committed to its obligations and it will keep its military engineers in this unstable country as long as it takes. That was a courageous act of a genuine ally.

As we face this colossal tragedy, the Government of Kazakhstan has announced its readiness to help the victims of Hurricane Katrina, and this is a noble gesture of a true friend.

Mr. Speaker, the Republic of Kazakhstan is one of our most reliable and strongest allies and a true partner. After only 13 years of its existence as an independent state, Kazakhstan has achieved tremendous success and economic development in the building of a true democracy.

President Nazarbayev in his address to Parliament earlier this month outlined a very impressive profile of his country's future development. He listed concrete goals and objectives on further improvement for the social and economic well-being for all Kazakh citizens, as well as moves to deepen political and democratic reforms. He proposed expanding the role of Parliament, introducing local elections, enhancing the role of political parties, introducing jury trials, expanding the role of nongovernmental organizations, and strengthening and developing a free news media.

I support the determination of Kazakhstan's leader to develop small and medium enterprises and agree with him that the success of political and economic programs depends on the creation of a class of private property owners who will make up a newly formed middle class.

As the President has stated, the main goal is to stay the course and sustain the pace of transformation. I believe the United States' response should be our readiness to assist this process.

I urge my colleagues and the administration to devote more attention to our strategic partnership with Kazakhstan.

In conclusion, Mr. Speaker, I would like to agree with President Nazarbayev that we are deeply optimistic about the future of Kazakhstan and the future of the United States and Kazakhstan partnership.

FAREWELL TRIBUTE TO JOINT CHIEFS OF STAFF CHAIRMAN AIR FORCE GENERAL RICHARD B. MYERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. HUNTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. HUNTER. Mr. Speaker, I take this time to talk a little bit about a great American leader who is winding up his tenure as the chairman of the Joint Chiefs of Staff of the United States of America, and that is, of course, General Richard Myers.

General Myers had his last appearance before the Committee on Armed Services today, and I was reminded of all the many wonderful appearances that he has made in advising not only the President and the Secretary of Defense but also the membership of both of the Houses of Congress with respect to the United States and our military requirements.

I was looking over the statements that were made by the President and others in 2001, really just a few days after 9/11, when General Myers was nominated for this position by the President of the United States, and I thought I would read that statement that the President made. I am quoting the President, George W. Bush, who said then in 2001: ''Today I name a new chairman of the Joint Chiefs, one of the most important appointments a President can make.

□ 1830

''This appointment is especially so because it comes at a time when we need great leadership. Secretary Rumsfeld and I thought long and hard about this important choice, and we enthusiastically agree that the right man to preserve the best traditions of our Armed Forces, while challenging them to innovate, to meet the threats of the future, is General Richard B. Myers.''

The President went on to say, ''General Myers is a man of steady resolve and determined leadership. He is a skilled and steady hand. He is someone who understands that the strengths of America's Armed Forces are our people and our technological superiority, and we must invest in both.''

Now, later, after the President had made that nomination, a number of people weighed in on this, commentators in the main weighed in on this nomination by the President and one, in one of the discussions, General Richard Hawley, retired, was asked about General Myers. He was asked to give his take on this particular appointment by the President. He said, ''Well, Dick Myers has wonderful credentials at the tactical, operational, and the strategic level. He has had diplomatic assignments. I think perhaps as an example when he was at U.S. Space Command, he really helped our combatant commanders understand how to fully integrate our space capabilities into their operations. And he also helped particularly those of us in the Air Force, but also I think others who work in defense issues understand what the potential is of our space forces to contribute in the future of our operational success.''

Now, of course, after that initial nomination and confirmation by the Senate, General Myers was thrust into this role, this very demanding role at a time in which we were engaged in a shooting war in Afghanistan on the heels of 9/11 and, shortly thereafter, combat operations in Iraq which have been ongoing. Through all of that, General Dick Myers has truly been a steady hand. He has been thoughtful, he has been able to handle the exigencies, the emergencies of the moment and, at the same time, look over the horizon to the problems that may face us 5 or 10 or 15 years down the line.

All the while he was operating or maintaining this understanding of our operational requirements in a combat sense, General Myers has been there when we have had national emergencies. I remember the hail of firestorms that we had in California. We had massive parts of our State literally on fire, and we desperately needed help. I remember the bureaucracy that we had in California in those days, and the fact that the State of California had not requested that our military capabilities, our military aircraft, that have a tremendous capability to put out forest fires, they had not requested that those be brought in because, in their words, they wanted to use all the contractors that they could before they went to the military. While that was happening, much of California was burning up.

I remember the decision that General Myers made to not wait on the bureaucrats in California, but to send these units, these emergency units out to California, and his reasoning was, by the time the planes got there, California would understand that they, in fact, needed some help in putting those fires out. Sure enough, before that first unit landed at Point Magoo, the State of California had, in fact, decided that they were not going to be able to put this one out in an expeditious fashion, and they requested the aircraft that General Myers had already sent.

So it was an example of a leader who understood how important it was to act quickly. Now, he has acted quickly as an adviser to the President and the Secretary of Defense. He is not in the chain of command. The combatant commanders go directly up to Secretary Rumsfeld and the President when they are receiving their orders for the prosecution of a war. But General Myers' advice on operations, on moving troops, on putting together a plan to handle the challenges of things like these improvised explosive devices, to handle rotations, this tremendous stress on our forces as we move forces in and out of theater, and as we bring the Guard and Reserve in and we

match them up with the active duty forces and have them in the present combat situation in Iraq and in Afghanistan, have the Reserve and Guard forces working side-by-side with the active duty forces to the point in which they cannot be distinguished, one from the other is, to a large degree, a function of General Myers' leadership.

So he leaves us with his last appearance before the House Committee on Armed Services today, and he is going to enjoy hopefully a little free time with his wonderful wife, Mary Jo. I know that we will be calling on him to give us his great judgment in the future, because he is a great American with lots of integrity, lots of respect from all sides of the aisle on Capitol Hill in both bodies, and also a great deal of respect from those people that work and serve this country every day, wearing the uniform of the United States. We are going to call on General Richard B. Myers many times. A wonderful, wonderful American.

Now, I would also like to talk very briefly about another great American, and an American family. I was reminded about this family when General John Kelly came in and we discussed some of the challenges that we are facing in Iraq. He is the liaison for the United States Marine Corps on Capitol Hill.

I thought about that family, that Kelly family as he walked out the door, and about the fact that while General Kelly was the Deputy Commander of the First Marine Division, and a very tough conflict and contest in Fallujah, in the western area of operations in Iraq, one of the most volatile and one which is very, very dangerous. While he was the Deputy Commander of the First Marine Division, his son John was a communications officer, also a United States marine in country, and his other son Robert was a rifleman, a member of a marine fire team, an enlisted marine who was, in fact, on the ground floor going house-to-house, street-to-street, and carrying out the mandates of the leadership of the First Marine Division in which his dad was the Deputy Division Commander. What a great American family. What a tradition this Kelly family has manifested. Of course, General Kelly has a wonderful daughter, Kathleen Kelly, who has spent a lot of time in places like Bethesda Hospital, comforting wounded marines and letting them know that Americans care about them.

That is the tradition of this country, and it is one that the Kelly family has done a lot to promote and to extend, and our great thanks to them for what they have done.

Also, Mr. Speaker, today I wanted to mention two wonderful leaders in my community who have passed on very recently. I have discussed before Jim Kuhn, who is a great, wonderful guy from the Imperial Valley, the guy who started the Salton Sea International Bird Festival. We are down there in Imperial Valley, we are very close to, and in fact, touch the Mexican border; we have an immense inland sea that is full of salt water, the Salton Sea. Jim Kuhn was a farmer who was a standout citizen who started in football and wrestling and went to Stanford, but came back to his beloved Imperial Valley and became one of the leading farmers, one of the leading innovators, a guy who was very creative in his area of agriculture, but also a guy with a great heart for the community. He founded this International Bird Festival which has brought people from all over the world to the banks of the Salton Sea there in Imperial Valley, California.

Jim died, as I noted earlier, very tragically in an automobile accident. He leaves a wonderful wife Heidi and the children, Vienna and Fritz, to carry on his legacy, and I know that they will.

Another dear friend and a great leader in California passed away, and we had services for him yesterday, and that was Corky McMillan. Corky McMillan was a guy who started his business with a pickup truck and a few carpenter's tools and rose from that and I might say is a guy who built much of San Diego, built a career and built a community in San Diego from those humble beginnings to become San Diego's finest homebuilder, one of the finest homebuilders in the Nation, and a person who literally built communities, not only in San Diego, but also in other parts of California and in other States.

Corky McMillan was a guy with a great heart. He was a guy who did lots of stuff for the community and was centered on his family. His family, Scott and Mark and Lauri and, of course, his beloved wife Bonnie were everything to Corky.

He became one of the great off-road racers in southern California. Those are the people that go down into Baja, California, with machines that go over holes in the ground that are 2 and 3 feet deep over ravines, literally taking those vehicles, those desert vehicles over them in a surreal manner, sometimes at speeds far exceeding 100 miles an hour, and manage to survive all of that. It is a rare breed of people. It started out with guys like Parnelli Jones, and has become a very high-tech sport, and it is one in which Corky McMillan and his sons Scott and Mark excelled and elevated to a level in which it is appreciated by people throughout the world.

Corky McMillan was a wonderful guy who gave a lot to his community and a lot to his country and a lot to the sport of racing, and we are going to miss Corky McMillan.

So I thank my colleagues for letting me reflect on some transitions today and talk about some Americans who truly deserve to be well remembered.

DISCUSSING THE AFTERMATH OF HURRICANES KATRINA AND RITA

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight and address this House of Representatives. As I sat and listened to the Chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), I cannot resist the sense of duty and obligation to weigh in on some of his remarks that he made with regard to General Myers as chairman of the Joint Chiefs of Staff.

Of course, the gentleman from California (Mr. HUNTER) has worked very closely with General Myers and he knows him far better than I do. My work in relationship there has been not as deep, but I have been as impressed as the gentleman from California (Mr. HUNTER) has been with Richard Myers, the chairman of our Joint Chiefs, and with his vision and his ability to see beyond the horizon, as the gentleman said.

I also had the privilege of meeting General John Kelly over in Iraq before the operation that ended the battle of Fallujah, and I was impressed with his dedication and his vision and his understanding of who our enemy was and what needed to be done, and I was pleased to sit here tonight and hear the remarks made by the gentleman from California (Mr. HUNTER), honoring the family, the family commitment to the military and to the defense of this fine Nation that was made by General John Kelly and his children.

Mr. Speaker, let me shift to the subject matter that I asked to speak about tonight and that is the subject matter that I have come to call ''Katrita.'' We have been here on this floor a couple of hours in the past 2 weeks, and I have spoken at great length about Katrina and, in these past few days, we have seen the aftermath now of Hurricane Rita. I just merge them together, because essentially they did merge together, Mr. Speaker, as Katrina hit New Orleans and points on the east and Rita hit points to the west of New Orleans on over into the bay and into Texas, so they have crossed those lines and the damage of the two hurricanes have overlapped on each other.

When I take Katrina on the one side and Rita on the other side and merge them together I get Katrita. It is the largest natural disaster I believe that this Nation has ever seen. We are fortunate that it has not been the largest loss of life, although we mourn those who we have lost, and we are still in the process of recovery. But this financial loss and the term of time that will be required for reconstruction I think is the most devastating that America has seen. We are going to need to pull together on this.

I am well aware that there are Members of Congress who have districts

that were hit hard by the dual hurricanes, and they are the most sensitive to these issues. I am up in the upper Midwest, although I have made my trip down there and much of my staff has been down there, and in fact, I have a staff person there today who will be there for some time. We want to lend a good hand to the people in the gulf coast intelligently and responsibly.

Before I get into that in any great depth, I will be happy to yield the floor to one of those individuals who does have constituents in the area, the gentleman from Texas (Mr. POE).

□ 1845

Mr. POE. Mr. Speaker, I wanted to thank the gentleman from Iowa (Mr. KING) for yielding and for hosting this hour to discuss these important issues.

When the two ladies of the gulf came in to Southeast Texas and southwestern Louisiana just in the last few weeks, in some respect the whole area and our attitude about natural disasters changed. As you mentioned, this is not the greatest loss of life regarding hurricanes. In fact, the greatest disaster that occurred in American history occurred in the year 1900 when ''the storm'' as it was called came across Galveston, Texas, that island, and killed at least 8,000 people, maybe even 12,000 people.

Times have changed a great deal because we now follow those hurricanes as our weather forecasters did with the two ladies of the gulf, Katrina, and more recently, Rita.

As you know, the folks in Louisiana disbursed throughout the United States but many, probably most came to Texas. And Texas is on the other side of the Savine River, and many of those people stopped off in my congressional district in Beaumont. Even this past week before Rita hit, there was still 15,000 people from Louisiana in Jefferson County where Beaumont, Texas is. Many of them went on further to Houston which is about 90 miles away.

The good folks in Texas and other parts of the country have tried to take care of those displaced citizens the best they can. Just last week, almost a week ago Hurricane Rita came down hurricane alley and hit us in Jefferson County and Liberty County and Harris County, three counties that I represent or portions of these three counties.

We did some good things. I say ''we,'' the government officials, local officials, Federal officials, and the community did some good things before Hurricane Rita came ashore. Of course, they were aware of the fact that there was a hurricane coming so there was an evacuation plan implemented. There was an expectation that about a million people would evacuate southeast Texas and move further west into other parts of Texas, but the truth of the matter was there was over 2½ million people evacuated.

By any imagination this would have been a large scale military operation in time of war. Moving 2½ million people logistically is a massive undertaking. The mayor of the City of Houston, Bill White, and the county judge, which is our county president, Robert Eccles, did a tremendous job moving people and evacuating people. And so, those people are coming back into southeast Texas as we speak.

The counties that I represent, Jefferson County, is still without power tonight. It has been almost a week. Still without water. It has been almost a week. The same is true in parts of Liberty County. As you know, in southeast Texas and southwest Louisiana from New Orleans to Corpus Christie, Texas, 60 percent of the Nation's gasoline is refined in that one area. In Port Arthur, Texas, which was hit by Hurricane Rita, 27 percent of the gasoline is refined in that one small community for the whole United States. And because of the Katrina and Rita, several of these refineries have had to shut down. Many of those refineries have never shut down since the day they opened some 20, 25 years ago. Those refineries invented the phrase of working 24 hours a day, 7 days a week, many years ago. It takes several days to get these refineries up and running once again.

I will mention something about the refineries momentarily. But for the most part, there was no damage to these refineries that cannot be repaired in just a few days, but they are missing a power source to start up again.

The county of Jefferson County, Beaumont and Port Arthur, evacuated about 90 percent of the people who lived there. Most of them are still displaced in parts of Texas, I think some of them are have gone to Iowa and looking at Iowa for the first time in their lives. They, of course, want to come home.

The situation there now after a week, local officials are there trying to maintain, of course, some order. For the most part there has been very little looting, and our first responders are spending 12 hours a day working in shifts. The biggest problem our first responders have is that they are sleeping in their police cars. Of course, they have no electricity. They have no air conditioning and they are doing a marvelous job. It is interesting to note that not one member of the Beaumont Police Department left town during Hurricane Rita.

Something remarkable occurred and I think it is worthy to note that the port of Beaumont ships most of the military cargo to Iraq and Afghanistan. Docked in the Port of Beaumont at the time of the hurricane was the Cape Victory and the Cape Vincent, two cargo ships that transport military cargo to Iraq and Afghanistan.

They were all expecting a surge of water to not only take over Port Arthur but further north, Beaumont as well. So the mayor and the first responders were concerned about their vehicles, what to do with them because they were doing to need them as soon as the hurricane was over. So the two captains of the Cape Victory and the Cape Vincent and the mayor, Mayor Guy Goodson, came up with the idea to put all of these vehicles on the two cargo ships. One does not think of seeking safety on a ship during a hurricane, but that is exactly what happened.

So they, in just a few minutes, made the decision and started within an hour without any red tape, without any permission, without any bureaucracy, without any committee meetings, just loading those two ships with police cars, fire trucks, ambulances, fire equipment, front-end loaders, police helicopters and dump trucks from several surrounding towns. Tug boats went into operation during the hurricane to secure the ships, and as soon as the hurricane passed by those vehicles were ready to be used and they are being used and they were all taken care of in a very safe manner.

We are thankful to these two salty sea captains for coming up with that idea and protecting the first responders there.

I do want to thank the President for coming down to my district and viewing the situation firsthand. He did so in Louisiana, came into Texas. He had a meeting with the local officials and the first responders. And then he flew over the entire area in a helicopter to see southeast Texas and of course Louisiana as well.

The need for American petroleum and natural gas and dependence on ourselves could not be more evident in this hurricane, in these last two hurricanes.

We in this country for various reasons have not built a new refineries since over 25 years ago. It is not economically profitable to do so so there has not been any. We are now 60 percent dependent on foreign crude oil in the United States, and every day we take more and more away from our own selves and we have to import crude oil to make sure that the American public has gasoline.

These two disasters are evident that we need to do something about being energy self-sufficient. Most of our refineries are in southeast Texas, southwest Louisiana. Most of the offshore rigs are in the gulf in the same area. That is why it is important in my opinion that we drill in other parts offshore, not just off the coasts of Louisiana and Texas but even further east, even off the coast of Florida, the East Coast and West Coast as well. We are the only major power in the world that has the policy of not drilling off our own shores.

People complain and are concerned, and that is rightfully so about the price of gasoline, certainly they should be, and we have to find a place to refine that crude oil and we also must find a way to produce crude oil as well.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, I would pose a question to the gentleman, as the gentleman raised the issue with the natural gas and oil drilling that goes on in the gulf, I have seen the map of where those rigs are, the platforms that are out there, and what I cannot see when I go down there along that shore and what I cannot seen when I go along there and in a plane or a helicopter is any rigs. Can you see the rigs from the shoreline, say if you are sitting on the beach anywhere down there?

Mr. POE. Well, of course they are not on a beach and the only way you could ever see is them on a clear night you could sometimes see the lights from the rigs that are offshore; but generally speaking, in the daytime you cannot see them at all.

Mr. KING of Iowa. I would pose a follow-up question. Does the gentleman have any idea why it is some folks oppose the drilling offshore when it is out of sight?

Mr. POE. I do not understand why. I think, in my own opinion, there is a certain fear and panic about offshore drilling that is unfounded. Those folks that can drill offshore today can do it in a very environmentally clean manner. The best example is probably using the North Sea. The roughest seas in the world are in the North Sea. And the North Sea has numerous offshore rigs. Most of them built by, of course, Texans, and they can do so in a safe manner.

We can drill offshore in a safe manner. We can drill in an environmentally safe manner. No one wants polluted air or water. I think the day has come now where we have to get rid of the unnecessary and abusive regulations so we can drill offshore. It will not only bring us natural gas, crude oil for gasoline, but it will bring an income to the American public, because when the Federal Government leases offshore, oil companies pay for those leases.

And some estimate that the American Treasury could receive up to $7 billion a year by leasing in those areas where we have not leased before.

So it is a decision that the American public is going to have to make, depending on foreign gas, natural gas, depending on foreign crude oil or drill offshore; and I think we should drill in numerous places. And it is a security issue because as you know when those hurricanes get in the gulf, they have to go somewhere. And we got all those rigs in one place, the refineries in one place as we have seen, it could have been a whole lot worse and the country could be in a whole lot worse shape just because of the energy and the lack of offshore drilling.

Mr. KING of Iowa. Mr. Speaker, I am advised that the last oil spill we had in any offshore drilling for oil was 1969. I do not know if the gentleman can confirm that, but in that question could the gentleman also respond to the question of, does the gentleman know if there has ever been a spill of natural gas drilling offshore? And if it did spill, would it kind of look like the gas that is boiling up out of the water in New Orleans where it would just dissipate into the air and is there a reason to be concerned, even if we were irresponsible with regard to natural gas drilling?

Mr. POE. Mr. Speaker, as far as I know there has not been any major problems. We know we have had these two hurricanes and with very little environmental impact with the offshore rigs. The refineries are built very, very well. The refineries knew that the hurricanes were coming. They started burning the fuel that was in the pipe so there would not be any pipe disasters.

Just to mention as a side note, one-third of the pipelines in the United States go right through my congressional district. They go to all parts of the United States, but one-third are through that congressional district. It is all very highly concentrated, but we can proceed with a safe energy policy. And like I said, the American public has to make that decision, and I hope they make the right decision which would be that we become more self-sufficient on energy.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for coming to the floor to stand up and let America and the Speaker know the circumstances in southern Texas and how that has impacted you all down there. I will pick up on the flow of this.

I had the privilege of going down there very early. In fact, my district director was on the ground near New Orleans on an air base on Labor Day which was just barely in the aftermath of the hurricane. It was important, I thought, to have someone down there to see what was going on so we could measure the magnitude of the disaster down.

He went down with a KC–135 load of Air Force MP's out of Colorado and reported back to me immediately. From what he saw down there, he said he thought there was so much military activity on Labor Day that it reminded him of the DaNang base during Vietnam when he was there.

So that gave me a sense of how much military effort there was even that early, and yet the public does not have the perception that there was a Federal response that was nearly as aggressive or as comprehensive as it actually was.

I would say further that I did not wait. The following week I was there on the eleventh and twelfth of September. I came in very early on that Sunday morning. I got a good look at much of what was going on and went up in a Black Hawk helicopter and flew all over New Orleans for a couple of hours. I went back down and had the meetings that I had asked for. I was given a ride over the Corps of Engineers headquarters.

□ 1900

There I entered their administrative offices where they rode out Hurricane Katrina, and looking at the drawings that they had and the maps of the area, and I had studied the elevations and the levees and the system that had been constructed. I had also read the reports that were predicting the worst-case scenario, which essentially Katrina was the worst-case scenario for New Orleans with the exception that maybe the winds could have been a little stronger, but it went in the most damaging path it could have. It was almost the perfect storm, and I will return to that description perhaps in a few moments, Mr. Speaker.

But when I think of the immediate military response that kept the air bases looking like Danang with so many planes landing, we had fixed-wing aircraft landing more often than one every minute, whether it be C–130s or KC–135s, cargo aircraft coming in with manpower and also with supplies, equipment, everything they could imagine that they could muster up from our military. Those fixed wing aircraft were landing on the runway. The military had set up their power system, and they had taken over the communications for the air traffic controllers which did not have power.

So the military system kicked in, and they were controlling the fixed-wing aircraft to land one more often than every minute on the runway there. Then, on top of that, the helicopters were coming and going; and they were landing crossways of the runway, asked to yield the right-of-way to the planes that were landing, a very, very busy place on Labor Day that early after Katrina hit.

So I would just fast forward to, in fact, exactly 7 days later when I found myself in a shelter in Slidell, Louisiana, visiting some of the people who had been evacuees from their homes and were looking for a place to lay their weary heads. They had set up the gymnasium there with perhaps 300 cots, a Red Cross-structured shelter. As I walked through there and visited some of the victims of the storm, I got a sense of the stories that they had lived through and a feel for the way they had been helped out and the helping hands that came from volunteers from all across this country, and in fact, hearing the stories of the traffic that was going south, while the evacuation was going north, people coming to help were a traffic jam themselves.

That is the American spirit, Mr. Speaker; and in that gymnasium, I met a young man who was a specialist with the 711th Signal Battalion out of Mobile, Alabama. He was Specialist Cunningham, and I asked him, of course, what unit he was with. He said, 711th Signal out of Mobile, Alabama, sir. I said, how did you get here out of Alabama? Didn't you get hit by a hurricane there, too? He said, Yes, but our orders were to come over here and help the people that needed it worse than we did. I said how did you get across Mississippi? His answer was, We used chainsaws and we used Humvees and

chainsaws, and we essentially cut away across the trees that were down over the highway, and we drug them out of the way and we opened the road and worked our way over here. So they had cut all the way or worked their way and cleared some of the way, if not all the way, across Mississippi to Slidell, Louisiana, on the eastern side of the Louisiana border, right next to the Mississippi line.

People from Mobile, Alabama, 300 strong, in there early, and they started out on Monday. That is Monday Labor Day, the same day my district director landed down there near New Orleans, the same day that the air traffic was landing, one plane more often than every minute, with helicopters landing in between, bringing manpower and machines and equipment and supplies in for people that were in need.

Mr. Speaker, the Federal Government did provide a fast response; but it was a huge area, 90,000 square miles to start with; and now it has been added to significantly by Rita. Of course, we learned from Katrina; and some of the things that were in place in Texas in preparation for evacuees, particularly those that might come out of Galveston in the event of a hurricane, were very beneficial to the people that came from New Orleans and found themselves in Houston.

I am quite impressed with the effort of the region and the resources that they pulled together and the ability that they had in the Astrodome to have supplies there and water and food and medicine. I think the report was 400 different kinds of pharmaceuticals in a pharmaceutical shop that was set up there along with cots and all the services that they needed, medical help and psychological help, and the list went on. Plenty of volunteers were able to take thousands of people into the Astrodome and have the supplies there so that it was orderly, clean, and neat. It was not littered.

Apparently, the people who went to the Astrodome helped clean the place up. I do not know, but every time I saw a picture of that, it was a clean place; and whenever I saw a picture of the Superdome, it was a very, very filthy and littered place that appeared to have no order, and it was a chaotic location, as we all pretty well know by now.

As the Committee on Government Reform meets and holds hearings and examines the circumstances that unfolded, I really do think that we need to let them do their due diligence. I think we need to let them listen to the testimony, and we heard the now-just-resigned director of FEMA give his testimony yesterday. More testimony followed today, I understand. It will follow in the days and weeks ahead.

It is important that we put on record the chronology of what happened when, where was the storm in the path, what notices went out, what decisions were made at what time, who was in the position of authority, and at what time did they make those decisions, who did they consult with, what was the basis of the facts of the information, what equipment did they have to work with, what alternatives did they have, what had they done in the past history to prepare themselves for such a disaster.

Certainly, it was not a surprise that a hurricane might someday hit of that magnitude, because that was published in the New Orleans Times-Picayune newspaper, I believe it was in late 2002.

I have read all those articles, and I have read the worst-case scenario, and I cannot believe that I would be one of the few people, but many, many people in that region were aware of the worst-case scenario, and that is essentially what transpired.

I think it is important to let the committee do their work, the Committee on Government Reform, bring the witnesses forward, put their testimony on the record, take the documents, the supporting documents, and put those into the record and have the staff and the interested people and the public and the media be able to take a good look and examine the facts and then write up the scenarios.

This committee will issue a report, and I want to reserve my judgment on all the things that I think went wrong until such time as I can point to them and say these are congressional findings, they are facts; and I want to base my judgment off of those facts.

I will give, Mr. Speaker, a couple of opinions on what I think happened, and not to be passing previous judgment but simply to give an overall sketch of how it looks to me from what I have seen, what I have been involved in, and that is, that I think Hurricane Katrina, and Rita to a significantly less effect, but Katrina particularly was almost the perfect storm.

It did what the director of Homeland Security said here on this floor, that it came in in a military fashion. If you were going to attack a city and you wanted to immobilize a city, what you would do is wipe out the communications, the power and electricity. That is the first thing that Katrina did. Then you would cut off all the transportation routes into the city, and that is what happened with the flooding and the roads that were taken out. Then the third thing that would happen would be, of course, you would attack, and that was the flood. The flood, when you start filling up a city like that, it immobilizes everything. It put everybody out of commission.

So it was almost a perfect storm from the standpoint of the damage that it did and the direction that it took.

I can speak about that perhaps a little bit more, Mr. Speaker; but I would add to that then, when local services disappeared and when we saw that many hundreds of the first responders were victims of the storm themselves, either their places were damaged by the wind, damaged by the water, under water, or damaged by the wind and the water and under water, but the first responders took a serious blow, and they were not there to help coordinate. They did not have a communications system to help coordinate with. I am sure that there are many, many stories of heroic people that toiled in oblivion in that chaos of the first few days that was the effect of the storm that hit New Orleans.

I will say that that rolling chain reaction of disaster, the effect of the city's response in particular was not as effective as it may have been due to lack of communications ability, due to lack of resources in places where one would think they might have been, and then the loss of communications so that it was not possible to salvage the operations, salvage the response to the storm because the resources were not there, had there been the right decisions made, I think to provide them. So you take it up to the next level of the State, and there, again, communications and decision-making are certainly something that will be questioned.

It kept the decisions out of the hands of the Federal Government, except for those National Guards like 711th Signal Battalion out of Mobile, Alabama, who came in and under whose order I do not know, but I am awfully glad they came. I was awfully proud to look at young Specialist Cunningham in the eye when he told me that they had chainsawed their way across Mississippi to get to Louisiana.

That is the American way, Mr. Speaker, and when I hear the anecdote that was told by the gentleman from Texas (Mr. POE) a few moments ago about the decision to place the vehicles on a couple of ships and keep them safe from the hurricane, and that offer was made by a couple of captains, he said that they made the decision in just a few minutes to place vehicles on a ship. They did that right away, and they protected all of those vehicles, they were in good condition, good shape, because a decision was made at the local level. Quick-thinking people that looked around and saw the resources that they had, that has always been the American way.

When we let government make decisions, we delay. For government to make decisions, the bureaucracy moves too slowly, the information moving up to the bureaucracy gets there too slowly; and even if the right decision is made, chances are it does not get back down through and does not get implemented in time for it to have the effect that it might have.

You really need people on the ground that are thinking for themselves and have enough self-confidence, enough leadership ability and enough authority to make those decisions like that decision was that recommended by the two ships' captains that saved all those vehicles, so that as soon as the storm was over, they could roll them off the ships and put them right to work rescuing people.

I thought that was a good example, and to think that we maybe could have

had those kinds of decisions in other areas around the disaster area if we had gotten government more out of the way and let the local and those people make those decisions, but they had to make the right ones in preparation, too. That is the part that I think that the Committee on Government Reform will bring out here so that Americans will see it with a true perspective.

If I could, I would appreciate the opportunity to yield to the gentlewoman from North Carolina (Ms. FOXX) who knows her mind, comes here and speaks it, speaks up for the right causes and the right principles; and I am very pleased to be associated with the gentlewoman from North Carolina.

Ms. FOXX. Mr. Speaker, I have enjoyed listening to my colleague from Iowa, and we share a lot of things in common, being able to know our own minds and speak them. I think they are in the face sometimes of running against the flow, but I think that is what the people of our respective States sent us here for, and so I think that that is what we should be doing.

I have appreciated the comments that you have made. I heard a little bit from my classmate, the gentleman from Texas (Mr. POE), and his comments that he was making, too, and I think that all of us owe a great debt to the people from our districts who have stepped up and helped in so many ways.

I know that the people of the 5th Congressional District of North Carolina, my district, have been extremely generous with their time and money in helping with the hurricane relief. They, and all the other people, have exemplified what a wonderful country we live in and how volunteers do step up when we need them to.

Our government can do very, very many great things, and our government does do many great things. We have a lot of fabulous people who work for the Federal Government and the State and local governments, too; but there are things that we are not equipped to do.

I, like you and the gentleman from Texas (Mr. POE), have been extremely saddened by the devastation that we have seen inflicted by these hurricanes. They are not the greatest disasters necessarily that have hit our country, but they have certainly been the greatest ones that have come in a long time.

I think that what our military and the Federal agencies have done has been positive, but I think that we have to do more at the State level and the local level; and I think we have to urge people to do more through the volunteer organizations, as you talked about.

I supported $10 billion in aid that we gave for this relief. I have supported every other bill that has come through except the one big omnibus bill that we had, the $52 billion bill.

□ 1915

We have done a lot to provide relief measures, tax relief measures for people, for college students, for workers and worker training programs. But my concern is that we spend the money that we spend here from the Federal level wisely. As a State Senator, I thought we should spend our government's money wisely, but we have to be extremely careful that we do not let our hearts override our heads. If I am spending my own money, it is okay if I let my heart dictate. But if I am spending other people's money, I think I have to make sure that I am voting with my head and not with my heart.

One of the concerns that I have is that we have oversight in the money that is being spent on the hurricane relief. We have to have oversight and accountability or else we will waste the precious money that we have. Every dollar wasted is a dollar not going to help some family in need or some agency in need. And I think that it is shameful that members of the minority party have often exploited the suffering and loss of life in this tragedy to score political points. We do not need to be dealing with partisan issues here. We need to work together to help the people of the gulf coast. But we need to do it in the most effective and fiscally responsible way possible.

I supported the select Bipartisan Committee to Investigate the Preparation For and Response to Hurricane Katrina. I think that that is the way we should be operating. We are going to have a full investigation, as the gentleman mentioned, and the report is going to come out on February 15. All the facts have to come out so that we can take steps on the Federal, State and local level to make sure that we do not have a debacle like we had there before. I think it is very important we examine the role of the Federal Government in disaster relief.

I am really proud to be a member of the Committee on Government Reform, and I appreciate my colleague from Iowa mentioning the Committee on Government Reform and the potential role it has to play in looking at this. What I hope is that the Committee on Government Reform is going to review many, many government programs and how they operate, and that this will be a catalyst for us to see what we are doing, particularly with rules and regulations as they apply to what is happening in the recovery.

But as we do that, it seems to me we should expand the way we look at rules and regulations. Are they doing what we need them to do? Not only what went wrong with Hurricane Katrina, but what can we do to streamline the way we operate? I want measured, common sense solutions to what we have seen as a result of the hurricane, but I want common sense solutions to all of the problems that we face in this country, and I think our citizens are saying that.

I know when I am at home, people are saying please do not just throw money at this problem. Let us use this as an opportunity to make things better in the future, not just put a Band-Aid on the issues, but make sure we do not lose the opportunity to find out what went wrong, fix that, and then go even further. And let us reduce the role of the Federal Government, because as my colleague said, in many cases just some good common sense on the part of average citizens can solve a lot of problems and keep us from wasting a lot of money in trying to solve a problem.

So I commend the gentleman for having this special order tonight, for bringing this to our colleagues' attention. We need to keep talking about it. We need to keep talking about it in a positive way, not a negative way. We need to say let us look for solutions, let us solve the problems, and let us make the gulf coast a better place to live. Let us make our entire country a better place to live by reducing the role of the Federal Government in our lives.

Mr. KING of Iowa. Mr. Speaker, I thank the gentlewoman from North Carolina (Ms. FOXX) for her contribution to this discussion and this debate and her involvement on the Committee on Government Reform, which has got an important role to play, and always has when it comes time to streamline government and bring more responsibility out of government.

This is an especially important time. There are a lot of Federal dollars being poured into this region as we speak. And as the gentlewoman from North Carolina (Ms. FOXX) said, she voted no on the $52 billion. I am one of those people that voted no on the $52 billion. Actually, $51.8 billion, to be precise, not that a couple hundred million dollars is not splitting hairs in this Congress, Mr. Speaker, but I think it is. And I voted no because there was approximately $5 billion in there that was easily identifiable as not emergency spending, Mr. Speaker. It was money that was being directed towards 300,000 trailer houses, of which 270,000 were back ordered. Back ordered trailer houses, and mitigation of future disasters is not emergency spending.

I wanted to focus the money on emergency spending, and I wanted to get about another $10 billion down there to keep FEMA going for another week so that we could do a better job of oversight. Because, as you know, once the money goes out the door, it is a lot harder to watch where it is spent than it is to put the strings on it before it leaves the door.

I believe we could have done a better job of that, but I do believe that we are joining together here to do a better job and looking back on some of that appropriations, to do the best we can to make sure it is spent as well as we can in any future requests. I want to make sure that we weigh in very carefully on where those dollars go.

That is the biggest reason that I went down there fairly early in this, on September 11 and 12, and I got a good look at all of New Orleans from the air. I also flew down from the Corps of Engineers' headquarters there over the

Mississippi River, which runs approximately 90 miles south, in a little bit of a winding pattern down to the Gulf of Mexico where the Mississippi River outlets into the gulf. Most people in the upper Midwest think that New Orleans is on the coast, that it is the outlet of the Mississippi, but in fact it is another 90 miles or so. Of course, when I was there, it was only about 75, I believe, because the water was so high and the damage that was done it really shortened the Mississippi River by a significant proportion.

Nonetheless, that disaster that I saw down along the channeling of the Mississippi River, or I will say next to the Mississippi River channel, where the river has perhaps, and I will state the information that I have is that the levees built to keep the Mississippi River in the channel are 25 feet above sea level. Then on the west side of the Mississippi, from the levee and going west, there is perhaps an average of about a half mile of bottom land there. That is protected with another levee about 25 feet high which protects the gulf, so that the gulf does not come into the backside of that levee that controls the Mississippi River.

That area in between those two 25-foot levees is the area that is about a half mile wide and generally about 90 miles long, perhaps 45 square miles, with six or seven towns in there. Those six or seven towns were all wiped out. The wind hit them all hard and damaged them severely. Even some of the best structures were really damaged severely.

The wind hit, and then the water surged over the levee from the Mississippi River side and flooded that area in between those two 25-foot dikes with that half a mile in between, and then the water surged over from the gulf side and did the same thing. So I am going to say wind damage like I have only seen in the worst of tornadoes, the entire area wind damaged like that, with entire buildings just blown away into splinters. Then, when the flood came from the surge, any buildings that were not blown away were mostly washed away. They floated and crashed up against each other against the levee.

Mr. Speaker, I have here on the easel a picture of one of the better built buildings down there in that bottom land parallel to the Mississippi River. This may be, just guessing, perhaps 30 miles south of New Orleans along the Mississippi. This is a building that is built with steel pilings driven in, and who knows how deep, but down deep enough to get a very solid bearing in order to build a building that can withstand a hurricane and can withstand the kind of water surge that was going to come.

As you can see, as good as it was built, it still blew everything from here on down away, and there is not a lot left to salvage here. One might be surprised that the structure seems to be fairly sound. I saw this all over, but I also square mile after square mile that had been homes that was nothing but a footing or a foundation or a concrete platform. I did not bring pictures of those because they are not so impressive, Mr. Speaker. That is just water-covered concrete footings and nothing left.

There were trees were the wind blew so hard it simply blew the leaves off the tree and the trees died. The salt water that came in, of course, killed most everything green. That is another piece that we do not hear much about, Mr. Speaker.

I have saved this particular picture because, in a way, it is kind of heartbreaking. I was walking along a levee south of Slidell, Louisiana, a levee that runs over towards New Orleans. And as I looked at the devastation after devastation, debris after debris, it was numbing after a while. It is hard to be shocked. In fact, you just get that sense of how can anything be worse and you start counting things in the trees, like counting life jackets that are hanging from the trees, hundreds of them; and counting refrigerators up in the trees, and I will say dozens of them. Odd things that stick out in a person's mind.

I ended up with about 1,800 pictures, which when I go back and look at them, I see things in those pictures that I did not see when I was there in person. But this caught my eye. Laying on the ground beside a place that used to be a home, and it says Happy Anniversary. This has not been disturbed at all. It is exactly the way it laid. You can see where the grass is laid over the top of the handle. Whether it was a husband that bought that for the wife, or the wife for the husband, or the children for the parents, or whether it was the grandchildren for the grandparents, I do not know, but when I look at that, I see one of the doves that was on top is broken and laying here and it seems to reflect on what happened to some of the families that lost a loved one maybe have not found a loved one yet.

We have done a pretty good job of locating people, but the effort still goes on. And when the waters came up, and they came so fast that there might be a 17- to 20-foot surge that would go from zero to 17 to 20 feet in a matter of 3 minutes, maybe 4 minutes, that was not much time to get away. A lot of people had to go up the stairs of their house up to their attics. And when the water came and filled their attic, they needed something to chop their way out through the roof in order to climb out on the roof to save themselves from the flood.

I do not know how many people did not have a means to chop themselves out of their own attic. I do not know, but as I look at this, I cannot help but think that it may not be this family that lost someone, but I believe it represents many of the families that did lose someone who was celebrating their anniversary not all that long ago.

On the positive side, Mr. Speaker, this is a very resilient Nation, and we have a strong character and a strong resilience. We also have a sense of defiance, which is rooted back in the defiance of King George. So when we are met with disaster, no matter how bad the disaster, no matter how bad the blow, we have people that stand up and they look around and they think, all right, if that is the best you can give me, then I can take that and I am going to rebuild. I will put my life back together, my business back together, put my house back together, and I am going to live here and make it. I am going to be profitable and contribute back to this country and the neighborhood and the economy.

This is a symbol of that defiance, Mr. Speaker. This is one of the things that warmed my heart as we flew by there. The individual or the family that owned this place had lost almost everything. This is mostly trash and rubble. If you look up here, this is debris that has all been pushed over by the wind. That is just floating debris, and the water has been over the top of this levee. That is the Mississippi River right at the top of the picture.

As the owner came and found nothing, he did find a flag pole that was still standing. There is no way the flag that was on that flag pole originally survived that wind. But, Mr. Speaker, the first thing he did was went and got a fresh Old Glory and ran it up to the top of that flag pole in defiance of the storm and in proud independence that he would be, and I assume it is a he, rebuilding.

One day I will go back down there, and I hope I can identify that flag pole, because I think there is going to be some buildings that have been reconstructed again, and the place will one day look better than it did the day before the storm hit.

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We have a lot of big decisions to make: where the Federal dollars will go, where they will come from. We have an obligation to look for offsets. We cannot continue to put debt on the backs of our children and grandchildren. We can find the savings.

I am convinced that this Congress, working together in a bipartisan manner, will be able to find ways to save money so we can get the resources into the gulf coast to help out our friends in Texas, Mississippi, Louisiana and Alabama, and to a lesser extent some of Florida. I am hopeful that we can join together in a way to do that.

I have a few ideas myself. I am not going to enter into this debate here tonight with them, but I have been working on my own list on how to fund Hurricane Katrina's reconstruction. It is essential that we find offsets, and we can do some reconciliation legislation. It will be a blessing for us because we will find a way to make government more efficient. We will have that debate here. It will be on the floor of Congress.

But also finding ways to pay for it is not enough. We also have to spend the

money wisely. We need to limit it to the extent we can while still taking care of our obligations from the Federal Government.

I have looked at the things that we need to do to protect New Orleans again. It is below sea level. There was 16 feet of water standing in parts of New Orleans. That whole area with standing water is below sea level. We have to find a way, and there was discussion whether we could construct below sea level. Those questions landed on my ears. Actually, I thought they were prudent questions that needed to be asked, deliberated upon, and we need to bring more facts to the table before we can come up with a definitive answer.

But when you look at New Orleans and see the downtown buildings that rise up out of the water, and I was able to see it on a day when it was a bright blue sky, and the sunlight reflecting off the downtown buildings made the water blue, as the downtown buildings stood up, I looked and it was clear to me, yes, you cannot let a great city like New Orleans stand in water and not be reconstructed better than it was before. We need to rebuild the city, but we need to rebuild the city in a wise fashion.

My first recommendation is New Orleans, the levees that protect it and the systems that protect it from a hurricane, be constructed in preparation for a category 5 hurricane. If you can imagine a worse one, let us reconstruct for that. Let us do the hurricane mitigation work so the worst storm we can imagine cannot come in and do the kind of damage that Hurricane Katrina did to New Orleans.

The first step is as the water in Lake Pontchartrain increased by that 14 to 15-foot average water depth, and as it went up another 8 to 10 feet, because of the storm surge from the gulf, as the low pressure center raised the level of the water in the ocean and that hard south wind at 150 miles an hour drove that water up into the lake, stacked it up against the north shore of Lake Pontchartrain and filled that lake up with 8 to 10 feet more water, and then when the hurricane shifted to the east and winds came from the north, it drove that high wall of water down against the levees on the south side of Lake Pontchartrain. The waves added another 8 to 10 feet, it washed over the levees and flooded the city.

We know what happened, and to prevent it from happening again, I believe we need to do the engineering study, do the financial analysis, but repair the levees on the outlet of Lake Pontchartrain to a level that can protect Lake Pontchartrain itself from a category 5 hurricane so it cannot be breached, and to put hurricane gates in where necessary so we can close those in the event of a storm and keep the ocean water out of Lake Pontchartrain. That is step one.

Step two is if it gets in there or if there is a surge of the water in there, and I do not know if it is possible to have that kind of an effort under any kind of a storm, but if the water does get into Lake Pontchartrain, then we need to be prepared for the second level of protection.

That second level would be to build the levees between Lake Pontchartrain and New Orleans to an elevation that will protect New Orleans from 25 feet above sea level from a category 5, and then to put hurricane gates in at the inlets of the canals, the 17th Street Canal being the most infamous of them all. That can be done and protected. We need to come out with a cost and engineering analysis of that and make a decision in this Congress.

I believe if that cost is anywhere near reasonable, we need to get that done before there is new construction going on down below sea level in New Orleans itself. So that is two systems that would protect New Orleans from a flood.

I point out there is a significant amount of construction done in the world below sea level. Holland is one of those examples. I am told a third of Holland is below sea level; and when I was told that, I said they have reclaimed another portion from the sea since when I went to school and a fourth of the nation was underwater. That is probably the case. They continually reclaim. They construct below sea level. I believe we can do that in the area of New Orleans. I have some more questions from the engineering perspective that I do not have the answers to, but protect the outlet of Lake Pontchartrain to keep the ocean water out and storm surge out, and keep the water in Lake Pontchartrain there by putting gates at the inlet of the canals, and perhaps raise the level of the hurricane levees on Lake Pontchartrain.

The third thing is the pump stations have to be raised up well above the high water mark of this flood, and they need to have redundancies built in so they can pump water if the power goes out. If the power goes out, they automatically kick on. And the water that is being pumped out of New Orleans now over the last week and a half or so, it is a massive quantity of water. It is 27,000 cubic feet per second, more than twice the amount of water that runs down the Missouri River at Sioux City, Iowa, in the area where I live.

Mr. Speaker, Florida has a lot of experience with reconstructing in preparation for category 5 hurricanes. They have perfected a lot of the method of how to prepare for a hurricane, how to evacuate, how to zone the houses and the buildings so they are prepared for that kind of wind and damage. Requiring shutters is one thing, and building off the ground is another. There are a number of ideas from an architectural standpoint. There is much that has already been established. We should look at that opportunity to take the language of those zoning restrictions that they have and the emergency response system that they developed in Florida and bring that into Louisiana, Mississippi and parts of Texas; but Louisiana needing the most help, it appears.

I think we can learn from our experience. We need to also be able to have a Federal requirement on the construction of the levee so if there is a levee that can be breached and put that much property in jeopardy, we need to have Federal oversight over that levee. There is much that can be done and should be done.

I will be involved in the effort to identify the mitigation work and looking at the cost and the engineering design and the recommendations. I would also point out that there will be a population loss in New Orleans. I do not know that number, no one knows that number, but perhaps a loss of a quarter of the population, perhaps more. If that is the case, the homes that will be condemned, many are still under water today, that will be the last place that needs to be reconstructed.

The reconstruction of the homes can go in the higher elevation areas where they do not have water. Those decisions need to be made so people can make plans for the future. That is part of this Congress' responsibility. Wherever there are Federal dollars, we have an obligation to the taxpayers that they are spent wisely.

There are private sector solutions to this, and we need to listen to our representatives from that area, those that are advocating for less pressure on taxpayers and more pressure on individuals, and the solutions of tax credits and I will say commerce-friendly zones, tax free zones, for example, lay all of those ideas out on the table.

The gentleman from Louisiana (Mr. BOUSTANY) and the gentleman from Louisiana (Mr. JINDAL) both have been very active, along with the other Representatives from Louisiana. The gentleman from Louisiana (Mr. MCCRERY) has been very vocal here. I am looking forward to their input and working in cooperation with them so we put a solution together that will leave a legacy of making it better when things are bad in the event of Hurricane Katrina and Hurricane Rita.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. COLE of Oklahoma (during the Special Order of Mr. KING of Iowa), from the Committee on Rules, submitted a privileged report (Rept. No. 109–242) on the resolution (H. Res. 474) waiving points of order against the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT TO MONDAY, OCTOBER 3, 2005, AND ADJOURNMENT FROM MONDAY, OCTOBER 3, 2005 TO THURSDAY, OCTOBER 6, 2005

Mr. COLE of Oklahoma (during the special order of Mr. KING of Iowa). Mr. Speaker, I ask unanimous consent that when the House adjourn today, it adjourn to meet at 4 p.m. on Monday next, and further, when the House adjourns on that day, it adjourn to meet at 10 a.m. on Thursday, October 6, 2005.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GUTIERREZ (at the request of Ms. PELOSI) for today on account of illness in the family.

Ms. KILPATRICK of Michigan (at the request of Ms. PELOSI) for today after 5:10 p.m. on account of personal reasons.

Mr. HOBSON (at the request of Mr. BLUNT) for today after 3:00 p.m. on account of official business.

Mr. CULBERSON (at the request of Mr. BLUNT) for today on account of business in the district.

Mr. GARY G. MILLER of California (at the request of Mr. BLUNT) for today after 5:15 p.m. on account of illness.

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. HOYER, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. MELANCON, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

(The following Member (at the request of Mr. WESTMORELAND) to revise and extend his remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1235. An act to amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemember and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs; t4o the Committee on Veterans Affairs.

S. 1786. An act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita; to the Committee on Transportation and Infrastructure.

S. 1778. An act to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; to the Committee on Energy and Commerce; 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.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina and Rita through vocational rehabilitations services.

SENATER ENROLLED BILLS SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, October 3, 2005, at 4 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4300. A letter from the Acting Director, Defense Research and Engineering, Department of Defense, transmitting Notification of intent to obligate funds for test projects for inclusion in the Fiscal Year 2006 Foreign Comparative Testing (FCT) Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

4301. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4302. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4303. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the United Arab Emirates pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4304. A letter from the Secretary of the Commission, BCP, Federal Trade Commission, transmitting the Commission's final rule — Notice of Federal Trade Commission Publication Incorporating Model Forms and Procedures for Identity Theft Victims (RIN: 3084-AA94) received May 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4305. A letter from the Acting Associate Administrator, Environmental Protection Agency, transmitting a copy of the Agency's report, ''Report on Congress on the Status of Environmental Education in the United States,'' pursuant to Public Law 101—619; to the Committee on Energy and Commerce.

4306. A letter from the Special Advisor, Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 to Amend Section 338 of the Communications Act [MB Docket No. 05-181] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4307. A letter from the Associate Managing Director/PERM, Federal Communications Commission, transmitting the Commission's final rule — Assessment and Collection of Regulatory Fees for Fiscal Year 2005 [MD Docket No. 05-59]; Assessment and Collection of Regulatory Fees for Fiscal Year 2004 [MD Docket No. 04-73]; received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4308. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones [WT Docket No. 01-309] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4309. A letter from the Legal Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule — Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures [WT Docket No. 05-211] received September 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4310. A letter from the Acting Chief, CGB3, Federal Communications Commission, transmitting the Commission's final rule — Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 [CG Docket No. 02-278] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4311. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's

final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Dallas, Oregon) [MB Docket No. 04-124; RM-10936; RM-10937; RM-10938; RM-10939] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4312. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Colfax, Louisiana) [MB Docket No. 05-117; RM-11182]; (Moody, Texas) [MB Docket No. 05-119; RM-11184] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4313. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Altheimer, Arkansas) [MB Docket No. 05-81; RM-11102] Reclassification of License of Station KURB(FM), Little Rock, Arkansas received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4314. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Talladega and Munford, Alabama) [MB Docket No. 04-19; RM-10845) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4315. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Opal and Reliance, Wyoming and Bringham City, Woodruff, Price and Fountain Green, Utah) [MB Docket No. 02-294; RM-10543; RM-10774] received August 23,2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4316. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Big Spring, Texas) [MB Docket No. 05-137; RM-11161] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4317. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Morgan, Georgia) [MB Docket No. 02-109; RM-10420; RM-10546] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4318. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Palacios, Texas) [MB Docket No. 04-330; RM-11051] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4319. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (San Luis Obispo and Lost Hills, California and Maricopa, California) [MB Docket No. 05-88; RM-11173; RM-11177] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4320. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communictaions Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Georgetown, Mason, Oxford and West Union, Ohio, and Salt Lick, Kentucky) [MB Docket No. 04-0411; RM-11096] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4321. A letter from the Secretary of the Commission, BCP, Federal Trade Commission, transmitting the Commission's final rule — Telemarketing Sales Rule Fees (RIN: 3084-0098) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4322. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4323. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4324. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4325. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4326. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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4328. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4329. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4330. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4331. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4332. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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4337. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4338. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's Year 2005 Inventory of Commercial Activities, as required by the Federal Activities Reform Act of 1997, Pub. L. 105-270; to the Committee on Government Reform.

4339. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Payroll Deductions by Member Corporations for Contributions To a Trade Association's Seperate Segregated Fund [Notice 2005-18] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

4340. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Payroll Deductions by Member Corporations for Contributions To a Trade Association's Seperate Segregated Fund [Notice 2005-18] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

4341. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf (OCS)-Cost Recovery (RIN: 1010-AD16) received August 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4342. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2005-06 Late Season (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4343. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4344. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4345. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — 2005-2006 Refuge-Specific Hunting and Sport Fishing Regulations (RIN: 1018-AU14) received September 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4346. A letter from the Secretary, Department of Health and Human Services, transmitting a petition on behalf of a class of workers from the Iowa Army Ammunition Plant (IAAP) in Burlington, Iowa, to have IAAP added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

4347. A letter from the Secretary, Department of Health and Human Services, transmitting a petition on behalf of a class of workers from the Y-12 facility in Oak Ridge, Tennessee to be added to the Special Exposure Cohort (SEC), pursuant to the Energy

Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

4348. A letter from the Secretary and Attorney General, Departments of Health and Human Services and Justice, transmitting the eighth Annual Report on the Health Care Fraud and Abuse Control (HCFAC) Program for Fiscal Year 2004, pursuant to 42 U.S.C. 1395i; jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered by the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROGERS of Kentucky: Committee of Conference. Conference report on H.R. 2360. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–241) Ordered to be printed.

Mr. SESSIONS: Committee on Rules. House Resolution 474. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–242). Referred to the House Calendar.

Mr. HUNTER: Committee on Armed Services. House Joint Resolution 65. Resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission, adversely; (Rept. 109–243). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HAYWORTH (for himself, Mr. MILLER of Florida, Mr. SESSIONS, Ms. FOXX, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. TANCREDO, Mr. RENZI, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. POE, Mr. GUTKNECHT, Mr. GARY G. MILLER of California, Mr. CALVERT, Mr. FRANKS of Arizona, Mr. HUNTER, Mrs. KELLY, Mr. CARTER, Mr. GOODE, Mr. EVERETT, Mr. DUNCAN, Mr. GOHMERT, and Mr. MCCOTTER):

H.R. 3938. A bill to provide for comprehensive immigration reform; to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Ways and Means, Financial Services, Homeland Security, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. AKIN (for himself and Mr. CASE):

H.R. 3939. A bill to direct the Administrator of the Small Business Administration to establish Veterans Business Outreach Centers and Technical Mentoring Assistance Committees; to the Committee on Small Business.

By Mr. PRICE of Georgia (for himself and Mr. KLINE):

H.R. 3940. A bill to extend implementation of the Medicare prescription drug program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PRICE of Georgia:

H.R. 3941. A bill to provide for the establishment of a working group to identify and advance the development and use of alternative sources for motor vehicle fuels; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER (for himself and Mr. CONYERS):

H.R. 3942. A bill to establish a Federal Office of Steroids Testing Enforcement and Prevention to establish and enforce standards for the testing for the illegal use in professional sports of performance enhancing substances and other controlled substances; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. PETRI, Mr. DEFAZIO, Mr. SESSIONS, Mrs. EMERSON, Mr. MATHESON, Mr. BUYER, Mr. BOEHNER, Mr. SIMPSON, Mr. SODREL, Mr. MCCAUL of Texas, Mr. WILSON of South Carolina, Mr. MARCHANT, and Mr. BISHOP of Utah):

H.R. 3943. A bill to postpone the enforcement of new rules governing rest periods for truck drivers using sleeper berths until January 1, 2006; to the Committee on Transportation and Infrastructure.

By Mr. ALLEN (for himself, Mr. MCHUGH, Mr. MARKEY, Mr. BROWN of Ohio, Ms. SOLIS, Mrs. CAPPS, and Mr. GRIJALVA):

H.R. 3944. A bill to amend the Internal Revenue Code of 1986 to allow a temporary credit against income tax to offset the high fuel costs of small businesses, farmers, and fishermen; to the Committee on Ways and Means.

By Mr. BAKER (for himself, Mr. JEFFERSON, Mr. BOUSTANY, Mr. MCCRERY, Mr. JINDAL, Mr. ALEXANDER, and Mr. MELANCON):

H.R. 3945. A bill to facilitate recovery from the effects of Hurricane Katrina by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions and Federal regulatory agencies, and for other purposes; to the Committee on Financial Services.

By Mr. BAKER (for himself, Mr. MCCRERY, Mr. JEFFERSON, Mr. ALEXANDER, Mr. JINDAL, Mr. BOUSTANY, and Mr. MELANCON):

H.R. 3946. A bill to provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in Louisiana affected by Hurricane Katrina, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BLACKBURN (for herself, Mr. TANNER, Mr. GARRETT of New Jersey, Mr. WILSON of South Carolina, Mr. GARY G. MILLER of California, and Mr. BARTLETT of Maryland):

H.R. 3947. A bill to amend the Internal Revenue Code of 1986 to authorize the Federal Government to guarantee tax exempt bonds for the purpose of rebuilding the Gulf Coast from the impacts of Hurricanes Katrina and Rita; to the Committee on Ways and Means.

By Mr. BROWN of Ohio (for himself and Mr. STRICKLAND):

H.R. 3948. A bill to amend title 38, United States Code, to eliminate the deductible and change the method of determining the mileage reimbursement rate for the beneficiary travel program administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. CASTLE (for himself, Mr. ANDREWS, Mr. WELDON of Pennsylvania, and Mr. PASCRELL):

H.R. 3949. A bill to protect volunteer firefighters and emergency medical services personnel responding to national emergencies from termination or demotion in their places of employment; to the Committee on Education and the Workforce.

By Ms. DELAURO (for herself and Mrs. EMERSON):

H.R. 3950. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug advertising, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRANK of Massachusetts:

H.R. 3951. A bill to require compensation for jury service to be excluded in determining income for purposes of the supplemental security income program under title XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. GINGREY:

H.R. 3952. A bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, the Budget, Government Reform, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS (for herself and Ms. ROS-LEHTINEN):

H.R. 3953. A bill to authorize 4 permanent and 1 temporary additional judgeships for the middle district of Florida, and 3 additional permanent judgeships for the southern district of Florida; to the Committee on the Judiciary.

By Ms. HERSETH (for herself, Mr. SCHIFF, Mr. FILNER, Mr. EMANUEL, Mr. HIGGINS, Mr. PALLONE, Mr. GRIJALVA, Mrs. TAUSCHER, Ms. MATSUI, Mr. VAN HOLLEN, Mr. BROWN of Ohio, Mr. DAVIS of Florida, Mr. BISHOP of Utah, Ms. BALDWIN, Mr. OLVER, Mr. WEXLER, Ms. SOLIS, Ms. KAPTUR, Mr. NADLER, Mr. MEEKS of New York, Mr. CONYERS, Mr. WAXMAN, Mr. BERRY, Ms. SCHAKOWSKY, Mr. GENE GREEN of Texas, Mr. LANTOS, Mr. MCDERMOTT, Mrs. MALONEY, Mr. MEEHAN, Mr. LARSON of Connecticut, Mrs. DAVIS of California, Mr. KILDEE, Mr. GEORGE MILLER of California, and Mr. ROSS):

H.R. 3954. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of Iowa:

H.R. 3955. A bill to amend the Controlled Substances Act to provide for the transfer of ephedrine, pseudoephedrine, and phenylpropanolamine to schedule V of the schedules of controlled substances, and for other purposes; to the Committee on Energy and Commerce, 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. KUHL of New York:

H.R. 3956. A bill to provide for a drug discount program for individuals without prescription drug coverage; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Kentucky (for himself, Mr. RANGEL, Mr. ENGLISH of Pennsylvania, Mr. JEFFERSON, and Mrs. JOHNSON of Connecticut):

H.R. 3957. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Ways and Means.

By Mr. MELANCON:

H.R. 3958. A bill to provide disaster relief and incentives for economic recovery for Louisiana residents and businesses affected by Hurricane Katrina; to the Committee on Ways and Means, and in addition to the Committees on Appropriations, Agriculture, Transportation and Infrastructure, the Budget, Financial Services, Energy and Commerce, the Judiciary, Armed Services, Education and the Workforce, Resources, and Small Business, 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. NEAL of Massachusetts (for himself, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Ms. DELAURO, Mr. THOMPSON of California, Mr. DOGGETT, Mr. LEVIN, Mr. EMANUEL, Mr. STARK, Mr. VISCLOSKY, and Mr. PASCRELL):

H.R. 3959. A bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes; to the Committee on Ways and Means.

By Mr. NEUGEBAUER:

H.R. 3960. A bill to amend chapters 95 and 96 of the Internal Revenue Code of 1986 to terminate taxpayer financing of presidential election campaigns; to the Committee on Ways and Means, and in addition to the Committee on House Administration, 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. RENZI (for himself, Mr. PASTOR, and Mr. HAYWORTH):

H.R. 3961. A bill to authorize the National Park Service to pay for services rendered by subcontractors under a General Services Administration Indefinite Deliver/Indefinite Quantity Contract issued for work to be completed at the Grand Canyon National Park; to the Committee on Resources.

By Mr. SCHWARZ of Michigan:

H.R. 3962. A bill to amend the Public Health Service Act to provide liability protections for employees and contractors of health centers under section 330 of such Act who provide health services in emergency areas; to the Committee on Energy and Commerce.

By Mr. SIMMONS (for himself, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. LARSON of Connecticut, Ms. DELAURO, Mr. ISRAEL, Mr. BISHOP of New York, Mr. CROWLEY, Mr. ENGEL, Mrs. LOWEY, Mr. KING of New York, and Mr. ACKERMAN):

H.R. 3963. A bill to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound; to the Committee on Transportation and Infrastructure.

By Ms. SLAUGHTER (for herself and Mr. LARSON of Connecticut):

H.R. 3964. A bill to prohibit anticompetitive provisions in gasoline dealer franchise agreements that dictate the wholesale source of gasoline; to the Committee on Energy and Commerce.

By Mr. TIAHRT:

H.R. 3965. A bill to amend title 38, United States Code, to prohibit the interment or memorialized in national cemeteries of persons convicted of committing State capital crimes regardless of whether their sentences included parole; to the Committee on Veterans' Affairs.

By Mr. UDALL of Colorado (for himself, Mr. CHABOT, Mr. FLAKE, and Mrs. MUSGRAVE):

H.R. 3966. A bill to facilitate Presidential leadership and Congressional accountability regarding reduction of other spending to offset costs of responding to recent natural disasters; to the Committee on the Budget, and in addition to the Committee on Rules, 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. PITTS (for himself, Mr. WILSON of South Carolina, Mr. MANZULLO, Mr. PUTNAM, Mr. COLE of Oklahoma, Mr. DREIER, Mr. REYNOLDS, and Mr. ROYCE):

H. Con. Res. 256. Concurrent resolution commending the people of Mongolia for building strong, democratic institutions, and expressing the support of the Congress for efforts by the United States to continue to strengthen its partnership with that country; to the Committee on International Relations.

By Mr. RENZI (for himself and Mr. MATHESON):

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress with regard to a moratorium on the payment of principal or interest on certain mortgage loans, small business loans, and consumer loans for residents of a Federal disaster area; to the Committee on Financial Services.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. MEEKS of New York, Mr. HONDA, Mr. LANTOS, Mr. CONYERS, Mrs. JONES of Ohio, Mr. GRIJALVA, Mr. ROTHMAN, Ms. MCCOLLUM of Minnesota, Mr. BURTON of Indiana, Ms. BERKLEY, Mr. HOLT, Ms. JACKSON-LEE of Texas, Mr. DINGELL, Mr. FILNER, Mr. ABERCROMBIE, Mr. SERRANO, Ms. SCHAKOWSKY, Ms. LEE, Mr. FEENEY, Mr. HINCHEY, and Mr. ACKERMAN):

H. Res. 472. A resolution recognizing the commencement of Ramadan, the Islamic holy month of fasting and spiritual renewal, and commending Muslims in the United States and throughout the world for their faith; to the Committee on International Relations.

By Mr. RUSH:

H. Res. 473. A resolution condemning the racist remarks of William Bennett; to the Committee on the Judiciary.

By Mr. DELAHUNT (for himself and Mr. DOGGETT):

H. Res. 475. A resolution expressing disapproval of further payments by the Government of the United States to the Government of Uzbekistan relating to facilities at the Karshi-Khanabad airbase and urging the United Nations Security Council to refer the situation of Uzbek President Islam Karimov and the massacre at Andijan of May 13, 2005, to the International Criminal Court; to the Committee on International Relations.

By Mr. KING of New York (for himself and Mr. TOWNS):

H. Res. 476. A resolution recognizing the 50th anniversary of the Brooklyn Dodgers victory over the New York Yankees in the World Series; to the Committee on Government Reform.

By Ms. SOLIS (for herself, Mr. HASTINGS of Florida, Mr. PALLONE, Mr. HINCHEY, Ms. PELOSI, Mr. GEORGE MILLER of California, Mr. NADLER, Mrs. CAPPS, Mr. CROWLEY, Mr. MENENDEZ, Mr. HONDA, Mr. ALLEN, Ms. BALDWIN, Mr. BLUMENAUER, Mr. JEFFERSON, Mr. SERRANO, Mr. PAYNE, Mr. OWENS, Ms. MATSUI, Mr. DAVIS of Florida, Mr. GRIJALVA, Mr. LEWIS of Georgia, Mr. CLYBURN, Mr. BERMAN, Ms. SCHWARTZ of Pennsylvania, Mr. WEXLER, Ms. KAPTUR, Mr. MCGOVERN, Ms. LEE, Mr. DOGGETT, Mr. KUCINICH, Ms. LINDA T. SÓNCHEZ of California, Mr. CONYERS, Mr. ANDREWS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP of New York, Mr. RANGEL, Mr. VAN HOLLEN, Mr. UDALL of Colorado, Mrs. NAPOLITANO, Mrs. CHRISTENSEN, and Ms. KILPATRICK of Michigan):

H. Res. 477. A resolution expressing the sense of the House of Representatives that the crisis of Hurricane Katrina should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. HIGGINS.

H.R. 23: Mr. EVANS and Ms. BALDWIN.

H.R. 25: Mr. BURTON of Indiana.

H.R. 95: Mr. ALEXANDER.

H.R. 98: Mr. HUNTER.

H.R. 224: Mr. FILNER, Mr. HOLDEN, Mr. DEFAZIO, and Mr. SCOTT of Georgia.

H.R. 282: Mr. BOEHNER, Mr. WESTMORELAND, Mr. OXLEY, and Mr. OTTER.

H.R. 328: Mr. CUMMINGS.

H.R. 371: Mr. MCCAUL of Texas, Mr. LANGEVIN, Mr. SHERWOOD, and Mr. MARKEY.

H.R. 583: Mr. COOPER.

H.R. 670: Mr. INGLIS of South Carolina.

H.R. 698: Mr. HAYWORTH.

H.R. 719: Mr. COSTA and Mr. CLAY.

H.R. 759: Mr. MEEHAN.

H.R. 808: Mr. SMITH of Washington.

H.R. 839: Mr. RUPPERSBERGER and Mr. MICHAUD.

H.R. 857: Mr. SCHIFF.

H.R. 877: Mr. MCHUGH.

H.R. 881: Mr. KENNEDY of Rhode Island and Mr. ROTHMAN.

H.R. 910: Mr. EMANUEL and Mr. UDALL of Colorado.

H.R. 923: Mrs. CHRISSTENSEN, Mr. PLATTS, Mrs. MALONEY, Mr. LANTOS, Mr. DUNCAN, and Mr. SIMPSON.

H.R. 947: Mr. YOUNG of Alaska.

H.R. 994: Mr. KING of New York and Mr. LEACH.

H.R. 1079: Mr. EVERETT.

H.R. 1103: Mr. ANDREWS.

H.R. 1121: Mr. BRADLEY of New Hampshire.

H.R. 1125: Mr. NADLER and Mr. BAIRD.

H.R. 1131: Ms. LEE, Ms. PELOSI, Mr. DUNCAN, Mr. FORD, Mr. NEUGEBAUER, Mrs. BIGGERT, Mr. COOPER, and Mr. DENT.

H.R. 1176: Mrs. Drake.

H.R. 1188: Mr. PETERSON of Minnesota, Mr. MATHESON, and Mr. CROWLEY.

H.R. 1194: Ms. MATSUI.

H.R. 1202: Mr. HOEKSTRA.

H.R. 1222: Ms. CORRINE BROWN of Florida, Mr. HONDA, Mr. MCDERMOTT, Mr. KILDEE, Mr.

MEEKS of New York, Mr. LYNCH, and Mr. MCNULTY.
H.R. 1272: Mr. NEAL of Massachusetts.
H.R. 1281: Ms. BEAN.
H.R. 1288: Mr. ROYCE and Mr. POMBO.
H.R. 1298: Mr. BACHUS.
H.R. 1386: Mr. EVANS.
H.R. 1400: Ms. WASSERMAN SCHULTZ and Mr. SCOTT of Virginia.
H.R. 1441: Mr. WALSH, Mrs. JONES of Ohio, Ms. HERSETH, and Mr. JACKSON of Illinois.
H.R. 1471: Mr. LANGEVIN.
H.R. 1507: Mr. JACKSON of Illinois.
H.R. 1545: Mr. ENGEL.
H.R. 1548: Mr. MOORE of Kansas, Mr. SCOTT of Georgia, Mr. CLAY, Mr. BRADY of Pennsylvania, Mrs. MALONEY, Mr. HAYES, Mr. MEEKS of New York, Mr. SCHWARZ of Michigan, and Mr. OXLEY.
H.R. 1558: Mr. SABO.
H.R. 1561: Mrs. JO ANN DAVIS of Virginia and Mr. MOORE of Kansas.
H.R. 1602: Mr. PETERSON of Minnesota.
H.R. 1665: Ms. WOOLSEY.
H.R. 1671: Mr. ALEXANDER.
H.R. 1704: Mr. VAN HOLLEN and Mr. SHERMAN.
H.R. 1709: Mr. TIERNEY.
H.R. 1736: Mrs. MILLER of Michigan.
H.R. 1767: Mr. SHUSTER.
H.R. 1814: Mr. BAIRD.
H.R. 1898: Mrs. MILLER of Michigan.
H.R. 1973: Mr. MOORE of Kansas.
H.R. 2048: Mr. MORAN of Kansas and Mr. LANTOS.
H.R. 2052: Mr. VAN HOLLEN.
H.R. 2053: Mr. VAN HOLLEN.
H.R. 2058: Mr. GRIJALVA.
H.R. 2070: Ms. LINDA T. SÁNCHEZ of California.
H.R. 2112: Mr. GARY G. MILLER of California.
H.R. 2121: Mr. WATT, Mr. KIND, and Mr. KANJORSKI.
H.R. 2178: Mr. SHERMAN.
H.R. 2234: Mr. CLAY, Ms. SOLIS, Mr. DAVIS of Florida, and Mr. NEUGEBAUER.
H.R. 2237: Mr. WAXMAN.
H.R. 2498: Ms. MCCOLLUM of Minnesota.
H.R. 2525: Mr. PETERSON of Minnesota.
H.R. 2533: Mr. EHLERS and Mr. COSTA.
H.R. 2562: Mr. HONDA.
H.R. 2592: Mr. CROWLEY.
H.R. 2594: Mr. GONZALEZ.
H.R. 2669: Ms. ROYBAL-ALLARD, Mr. LOBIONDO, Mrs. NAPOLITANO, Mr. SHERMAN, and Ms. CARSON.
H.R. 2671: Mr. MICHAUD, Mr. PALLONE, Mr. LATHAM, Mr. KENNEDY of Rhode Island, Mr. GRIJALVA, and Mr. SCOTT of Georgia.
H.R. 2694: Mr. FILNER.
H.R. 2799: Mr. HOBSON and Mr. HINCHEY.
H.R. 2835: Mr. FILNER.
H.R. 2872: Mr. GILCHREST, Mr. DOOLITTLE, Mr. COSTELLO, Ms. PRYCE of Ohio, Mr. TIBERI, Ms. GINNY BROWN-WAITE of Florida, Mr. PASCRELL, Ms. CORRINE BROWN of Florida, Mr. MILLER of Florida, and Mr. TURNER.
H.R. 2952: Ms. LINDA T. SÁNCHEZ of California and Mr. ORTIZ.
H.R. 2961: Mr. MATHESON, Mr. BERRY, and Mr. LATHAM.
H.R. 2990: Ms. HART.
H.R. 3072: Mr. CLAY.
H.R. 3098: Ms. MOORE of Wisconsin, Mr. MARCHANT, Mr. ETHERIDGE, Mr. CONAWAY, Mr. FOLEY, Mr. PUTNAM, Mr. KING of Iowa, Mr. GREEN of Wisconsin, Mr. PEARCE, Mr. MILLER of Florida, and Mr. JENKINS.
H.R. 3111: Mr. BROWN of South Carolina.
H.R. 3137: Mr. TAYLOR of North Carolina.
H.R. 3145: Mr. BOUCHER and Mr. FILNER.
H.R. 3163: Mr. PETRI.
H.R. 3183: Mr. DEFAZIO and Mr. MOORE of Kansas.
H.R. 3188: Mr. LARSEN of Washington and Mr. HOLT.
H.R. 3301: Mr. SAM JOHNSON of Texas and Mrs. JOHNSON of Connecticut.
H.R. 3307: Mr. DOYLE and Mr. PRICE of North Carolina.
H.R. 3313: Mr. MCGOVERN, Mrs. DAVIS of California, and Mr. BRADY of Pennsylvania.
H.R. 3326: Mr. KUCINICH.
H.R. 3334: Ms. SOLIS, Mr. LANTOS, Mrs. JONES of Ohio, Mr. ISRAEL, Ms. CARSON, Mr. MORAN of Virginia, Mr. WEINER, Mr. KUCINICH, Mr. ABERCROMBIE, Mr. ROSS, and Mr. SHERWOOD.
H.R. 3360: Mr. LEWIS of Kentucky.
H.R. 3373: Mrs. JO ANN DAVIS of Virginia, Mr. EVERETT, Mr. FOSSELLA, Mr. MOLLOHAN, Mr. SNYDER, Mr. GOODLATTE, Ms. SLAUGHTER, Ms. HARRIS, Mr. CRAMER, and Mr. NEUGEBAUER.
H.R. 3380: Mr. PASTOR.
H.R. 3385: Mr. WU.
H.R. 3436: Mrs. JO ANN DAVIS of Virginia.
H.R. 3505: Mr. MCCAUL of Texas.
H.R. 3548: Mr. MCHUGH.
H.R. 3561: Mr. FARR.
H.R. 3563: Ms. VELÁZQUEZ and Mr. LIPINSKI.
H.R. 3577: Mr. LOBIONDO.
H.R. 3628: Mr. KUHL of New York and Mr. BOSWELL.
H.R. 3638: Ms. MCCOLLUM of Minnesota and Mr. MCHUGH.
H.R. 3644: Mr. CROWLEY, Mr. BRADY of Pennsylvania, Mr. CONAWAY, Mrs. MCCARTHY, and Mr. MCCAUL of Texas.
H.R. 3662: Mr. TIERNEY.
H.R. 3666: Mr. CONYERS.
H.R. 3670: Mr. CONYERS.
H.R. 3684: Mr. HEFLEY and Mr. INGLIS of South Carolina.
H.R. 3693: Mr. GARY G. MILLER of California.
H.R. 3696: Mr. HINCHEY.
H.R. 3697: Mr. MENENDEZ, Mr. HASTINGS of Florida, Mr. GUTIERREZ, Mr. BRADY of Pennsylvania, and Mr. CUMMINGS.
H.R. 3698: Mr. TIERNEY.
H.R. 3711: Mr. GUTIERREZ, Mr. BERMAN, Mr. KUCINICH, and Mr. GENE GREEN of Texas.
H.R. 3714: Mr. BOYD.
H.R. 3717: Mr. KUHL of New York, Mr. CONAWAY, Mr. MARCHANT, and Mr. ROGERS of Kentucky.
H.R. 3722: Mr. CLAY.
H.R. 3727: Mr. CONYERS.
H.R. 3731: Mr. CONYERS.
H.R. 3737: Mr. MILLER of Florida, Mrs. KELLY, Mr. FOLEY, and Mr. KIND.
H.R. 3754: Ms. HERSETH.
H.R. 3762: Mr. SMITH of Washington, Mrs. MCCARTHY, Mr. HOLDEN, Mr. FATTAH, and Mr. LANTOS.
H.R. 3764: Mr. CARDOZA, Mr. JEFFERSON, Ms. BORDALLO, Mr. OBERSTAR, Mr. PASTOR, Mr. WATT, Mr. JACKSON of Illinois, Ms. WATERS, Ms. MCKINNEY, Mr. MELANCON, Mr. WAXMAN, and Ms. LORETTA SANCHEZ of California.
H.R. 3774: Mr. GUTIERREZ, Mr. CLEAVER, and Mr. STRICKLAND.
H.R. 3776: Ms. GINNY BROWN-WAITE of Florida, Mr. GARY G. MILLER of California, Mrs. DRAKE, and Mr. MCCAUL of Texas.
H.R. 3779: Mr. CAPUANO.
H.R. 3785: Mr. GARRETT of New Jersey.
H.R. 3792: Mrs. LOWEY.
H.R. 3796: Mr. MCNULTY and Mr. VAN HOLLEN.
H.R. 3800: Mr. MCHUGH, Mr. STARK, and Mr. FARR.
H.R. 3811: Mr. MCCAUL of Texas and Mr. CONAWAY.
H.R. 3829: Mr. LUCAS.
H.R. 3837: Ms. DELAURO and Mr. CONYERS.
H.R. 3838: Mr. MCDERMOTT, Mr. KUCINICH, and Mr. BECERRA.
H.R. 3858: Ms. DELAURO, Mrs. DAVIS of California, Mr. PASTOR, Mr. VAN HOLLEN, Mr. LYNCH, Mr. MATHESON, Ms. KILPATRICK of Michigan, Mr. PAYNE, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. ABERCROMBIE, and Mr. HOLT.
H.R. 3860: Mr. JONES of North Carolina, Mr. TIAHRT, Mrs. SCHMIDT, Mr. HUNTER, Mr. BUYER, Mr. BURTON of Indiana, and Mr. MCHENRY.
H.R. 3888: Mr. KUCINICH, Ms. MATSUI, Mr. ABERCROMBIE, and Mr. RANGEL.
H.R. 3889: Mr. DEFAZIO, Mrs. CAPITO, Mr. KLINE, Mrs. EMERSON, and Mr. ALEXANDER.
H.R. 3895: Mr. MCCRERY.
H.R. 3896: Mr. MCCRERY.
H.R. 3905: Mr. MENENDEZ and Mr. THOMPSON of Mississippi.
H.R. 3908: Mrs. DRAKE, Mr. SMITH of New Jersey, Mrs. BLACKBURN, Mr. RADANOVICH, Ms. PRYCE of Ohio, Mr. WOLF, Mr. HYDE, Mr. LINCOLN DIAZ-BALART of Florida, Mr. WALSH, Mr. FORTUÑO, Mr. ROGERS of Kentucky, Mr. TURNER, Mr. BOUSTANY, Mr. MURPHY, and Mr. MCHUGH.
H.R. 3909: Mr. HINOJOSA.
H.R. 3916: Mr. STARK and Mr. PAYNE.
H.R. 3925: Mr. GRIJALVA, Mrs. MALONEY, Mr. MCDERMOTT, Mr. DOGGETT, Ms. MCKINNEY, and Mr. SHERMAN.
H.R. 3931: Mr. TURNER and Mrs. JOHNSON of Connecticut.
H. Con. Res. 137: Mr. BROWN of Ohio.
H. Con. Res. 157: Mr. NADLER.
H. Con. Res. 173: Mr. PUTNAM.
H. Con. Res. 174: Mr. LANTOS and Ms. SOLIS.
H. Con. Res. 177: Mr. BERMAN, Mr. WELDON of Pennsylvania, and Mr. MCCOTTER.
H. Con. Res. 222: Mrs. JO ANN DAVIS of Virginia.
H. Con. Res. 228: Mrs. DAVIS of California, Ms. ROS-LEHTINEN, Mrs. BLACKBURN, Mr. BRADY of Pennsylvania, Mr. ISSA, Mr. LANTOS, Mr. PETERSON of Minnesota, Mr. CONYERS, and Mr. MCINTYRE.
H. Con. Res. 230: Mr. BECERRA, Mr. GOODLATTE, Ms. BALDWIN, and Mr. MCCAUL of Texas.
H. Con. Res. 244: Mr. PITTS.
H. Con. Res. 247: Mr. DAVIS of Illinois, Mr. MILLER of North Carolina, and Ms. WOOLSEY.
H. Con. Res. 248: Mr. CAPUANO, Ms. KILPATRICK of Michigan, Mr. MCHUGH, and Ms. WOOLSEY.
H. Con. Res. 250: Mrs. BONO and Mr. CALVERT.
H. Con. Res. 251: Mr. KIND, Ms. HARMAN, Mr. TAYLOR of Mississippi, Mr. PETERSON of Minnesota, Ms. BEAN, Mr. KIRK, Mr. SANDERS, Ms. HERSETH, Mr. SENSENBRENNER, Mr. CASE, Mr. SNYDER, Ms. HARRIS, and Mr. GOODE.
H. Res. 137: Mr. SHUSTER, Mr. HALL, and Mr. ENGLISH of Pennsylvania.
H. Res. 276: Mr. SHERMAN, Mr. KOLBE, Mr. LARSEN of Washington, and Mr. FILNER.
H. Res. 316: Mr. DENT and Mr. PASTOR.
H. Res. 368: Mr. LINCOLN DIAZ-BALART of Florida and Mr. CARNAHAN.
H. Res. 389: Mr. MCINTYRE, Mr. OLVER, and Mr. SNYDER.
H. Res. 438: Mr. GENE GREEN of Texas, Ms. WASSERMAN Schultz, Mr. SHIMKUS, and Mr. KUHL of New York.
H. Res. 453: Mr. BISHOP of Georgia, Mr. BURTON of Indiana, Mr. MCHUGH, Mr. GRAVES, Mr. ALEXANDER, Mr. MILLER of Florida, Mr. TAYLOR of North Carolina, Mr. MATHESON, Mr. GENE GREEN of Texas, and Mr. GARRETT of New Jersey.
H. Res. 457: Mrs. CHRISSTENSEN, Mr. HALL, Mr. BOEHLERT, and Mr. WU.
H. Res. 463: Mr. LANGEVIN.

PETITIONS, ETC.

Under clause 3 of rule XII,

72. The SPEAKER presented a petition of the Cook County Board of Commissioners, Illinois, relative to a resolution dated June 21, 2005, condemning the use of torture as well as cruel, inhuman and degrading treatment upon anyone being held by, or under the permission of, any governmental authority; which was referred jointly to the Committees on Armed Services and International Relations.