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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, who seeks and finds us, let Your light shine on us today. May its bright beams provide us with answers to our questions, assurances for our doubts, strength for our weakness, and vision for our duty.

Illuminate the path of our Senators with the clarity of Your wisdom, so that whatever they say or do will bring honor to You.

Make our lives shining lights of Your goodness that people will see our faithful labors and glorify Your name. Help us to live to bless others.

We pray in the Spirit of Him who is the light of the world. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the Republican leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will start with a 60-minute period for morning business. Following that time, at approximately 10:45 or so, we will return to the pending business, which is the Transportation-Treasury-HUD appropriations bill. We expect to have two votes in relation to the minimum wage issue today. I hope we can schedule those votes early.

We need to make substantial progress on the underlying bill today, and I hope we can get back to amendments pertaining to matters within the scope of the bill. The two managers have been on the floor since Monday, and I know they are prepared to bring this bill to a close as soon as possible. I would reiterate again that we will finish this bill this week, with votes on Friday if necessary.

In addition to the Transportation-Treasury appropriations bill, we continue to move forward with resolve to meet our overall governing responsibilities. Given the significant, unexpected expenditures for Katrina, the Senate will meet the challenge of making tough choices about spending priorities. Most of my days, and the days of my leadership colleagues, have been spent in helping pull people together, in making those tough choices which are focused on restraining Government spending.

That does start at home in this body. Thus, yesterday the Senate overwhelmingly voted to eliminate congressional pay raises. I believe that was an appropriate action. It shows we are serious as we look for savings throughout the Government, and it starts at home in this body.

Eight committees of the Senate are hard at work doing the exact same thing, and that is prioritizing. I thank and commend the committees and their chairs and ranking members—the HELP Committee, the Banking Committee, the Environment and Public Works Committee—for their success yesterday in meeting those goals set out in the budget. I thank the chairmen and the committee members for their tremendous progress to date.

SADDAM HUSSEIN TRIAL

Mr. FRIST. Mr. President, today begins what is no less than the trial of the century, the trial of Saddam Hussein.

For the first time in recent history, a former leader will stand before his own people to be judged and tried for his crimes against humanity. For the first time, the Iraqi people will hear and watch the ''Butcher of Baghdad'' answer for 23 years of terror.

Saddam's crimes are surpassed only by the Rwandan genocide, Pol Pot's killing fields, and the tyrannies of Hitler, Mao, Stalin, and Kim Jong Il.

Egyptians, Kuwaitis, and Iranians were put to death simply because he decreed so. Saddam killed Kurds because of their ethnicity. And he killed Shiites because of their religion, Sunnis for their political views. Even babies and toddlers fell victim to the firing squad.

As Prime Minister al-Jafari said yesterday, there will be no tears for Saddam Hussein. But most surely, there will be tears for the hundreds of thousands of lives he crushed and destroyed with utter ruthlessness.

The trial of Saddam will reveal to the Iraqis and to the world the full extent of his brutality. And as the crimes are tallied and recorded, he will face the full judgment of the people and the uncompromising judgment of history.

I am confident justice will be served and that Saddam and his henchmen will be treated fairly and appropriately. And I am hopeful the process

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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will be an opportunity for the Iraqi people to experience some measure of catharsis and closure on a dark and terrible chapter in their history.

I commend them for their courage to restrain the desire for vengeance and to commit to the rule of law. It cannot be easy. Saddam's abuse ran deep and ran wide. But by granting him a fair trial—an opportunity to answer the charges—the Iraqi people are showing that Saddam's brutality was born of his nature and not theirs.

Cicero once said:

> Let us remember that justice must be observed even to the lowest.

Today, let it be said that justice will be observed even by the once mighty.

Mr. President, I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting Democratic leader is recognized.

Mr. DURBIN. Thank you, Mr. President.

IRAQ AND THE INTERNATIONAL STRATEGIC ENVIRONMENT

Mr. DURBIN. Mr. President, Secretary of State Condoleezza Rice is testifying today at the Senate Foreign Relations Committee. She will be meeting with the full Senate later for a classified briefing.

I am sure one of the topics that will be discussed at length will be the Iraqi constitutional referendum of this last Saturday. That vote was an important milestone. The voting by so many Iraqis was again a demonstrable act of courage. It is my most sincere hope that in the months to come, the political process in Iraq moves forward, that a stable government takes control in Iraq, and that Iraq takes control of its own future.

But similar to many of my colleagues, and a growing majority of Americans, we will not be satisfied with the status quo or the stay-the-course answers that we hear over and over from the White House when it comes to the situation in Iraq. The most fundamental questions we have to ask of this President and this administration are, What is your plan for victory? What is your plan for success? What is your plan to bring American troops home from Iraq?

It now seems evident that the constitution will pass. It also seems evident that despite substantial opposition from the Sunni minority, no province will reject this constitution or, if any do, there will not be enough to, in fact, reject the whole document.

Sunnis make up 20 percent of the population but 90 percent of the insurgency in Iraq. Sectarian violence is claiming the lives of thousands of Iraqis. We can't even calculate how many. Some are fearful that this country could still fall apart.

Saturday's election is no guarantee of long-term democracy in Iraq, but it was an important step forward and one that I applaud. The government that may now emerge needs to build legitimacy in Iraq and with its neighbors. It needs to take back control of its country from insurgency, chaos, and lawlessness so that American troops can come home.

Iraq cannot succeed if the Sunnis—one in five of the Iraqis—feel disenfranchised and alienated. It is a challenge to their leaders to put together a government now that truly reflects their country, to build not just a coalition of tribes but a nation. This must happen because the cost of destroying and now replacing the governing regime in Iraq has been so costly.

Saturday was a good day in Iraq, for sure. But the elections last January 30 also represented a good day for Iraq, and 543 Americans have lost their lives in Iraq since that election last January. Mr. President, 15,063 American service men and women have been wounded in Iraq, and 1,979 Americans have been killed. We are closing in on that awesome figure of 2,000 of our best and bravest soldiers having given their lives in Iraq.

Iraq passed an important milestone Saturday with the constitutional referendum. The process was a refreshing demonstration of democracy at work in a region unaccustomed to such a display of civic participation. But the product, some have argued, is flawed. Nonetheless, Iraqis, with their vote, have taken a step in this political process forward. This opportunity for Iraq has come at a high cost for America.

As the number of Americans killed continues to grow, and the number of injured increases as well, do we have a clear plan in place? At what moment in time will the Iraqi Army battalions be prepared to step forward so that Americans can step back? At what point in time will the Iraqi police force, the Iraqi security forces, say, ''We can now control our own country and now Americans can go home''?

This administration gives us the vaguest notion that it is somehow wrong to think about when that date may come. Perhaps it is wrong to announce it but not to have a plan to reach it. It is something that concerns me.

A few weeks ago, Generals Casey and Abizaid told a meeting in Congress that only one battalion was prepared to stand and fight by itself in Iraq today—only one battalion of the Iraqi Army. It is a far cry from 150,000-plus American soldiers who stand and fight today, who risk their lives today.

Today, the trial of Saddam Hussein is beginning. We were greeted this morning with all the major news organizations showing the closed-circuit videotape and film of the trial. It is a good thing that he is standing trial because he is a vicious murderer, a thug, and a monster of a human being.

However, Americans are questioning, still, whether or not we have paid too heavy a price for this day to have arrived and asking of this administration, now that he is standing trial: How much longer will we be standing trial in Iraq as we wait for the outcome each day of the bloody fighting?

What has changed since May of 2003 is that the costs of the war have risen, are still climbing; the trust the American people have placed in the President has been shaken. What has also changed is, while the cost of war continues to grow, the alleged justifications for the war have multiplied, and the clarity of our purpose has diminished dramatically. This is a terrible and tragic combination.

Saddam was a monster. That is true. But we must never forget that of all the many reasons given to us by this administration to invade Iraq, the evil nature of Saddam was the only one that has proven true. Except for the brutality of Saddam Hussein—as bad as it was, as horrible as it was—all the other reasons for going to war the administration put forth turned out not to be accurate. There were no weapons of mass destruction. We still, many years later, have found no evidence of that claim, made over and over and over again at the highest levels of this administration.

The 9/11 Commission showed us there was no support for al-Qaida in Iraq. Yet as recently as last Sunday, Secretary of State Condoleezza Rice tried to again link al-Qaida and 9/11 with Saddam Hussein.

The 9/11 Commission made it clear, there is no linkage. The war has not increased our own security. Some can argue—and I think convincingly—that it has made the world a more dangerous place. It has created a training ground for terrorism in Iraq where insurgents come from surrounding countries to train themselves in killing American soldiers, to go out and do even worse to Americans and others all around the world.

The only reason left for this war was the removal of Saddam Hussein. Two-thirds of Americans, when they measure that benefit against the enormous cost in blood and treasure, conclude it may not have been worth that price. Nearly $200 billion has been spent, nearly 2,000 Americans have been killed, and the pricetag goes up every day in terms of American lives and American treasure.

Our national interest has suffered in other ways as well. The war has altered the international strategic environment to our disadvantage. Let's begin with Iran. Iran gives every sign that it is determined to acquire nuclear weapons. Such a development threatens regional stability and our own national security. It is not in our interest or the world's interest. In August, the Bush administration went to the diplomats of more than a dozen countries and presented an hour-long slide show on Iran's nuclear program. This PowerPoint briefing incorporated satellite imagery and other data to try to convince other nations that Iran's nuclear program is aimed at producing

weapons, not energy. But who could look at such a slide show and not think back to February 2003, when Secretary of State Colin Powell made a similar case to the United Nations about the existence of weapons of mass destruction in Iraq? An embarrassing moment. That was, in my opinion, the low point in a very distinguished and noble public career of national service of Secretary of State Colin Powell. Indeed, it was the stature of Secretary Powell alone that lent such force to that argument. To learn later that the facts were not there had to be a crushing blow to this man who has given so much to America.

Two years later we found no weapons of mass destruction. Mohamed ElBaradei and the International Atomic Energy Agency told us there were no weapons of mass destruction. We ignored them. They asked for more time to prove their point; we rejected it. The Bush administration decided we had to invade. We couldn't wait for allies. We couldn't wait for proof. We couldn't wait. Now ElBaradei and the IAEA have been proven right and recently were awarded the Nobel Peace Prize.

The damage to our national credibility by presenting a distorted case for the war has been severe. Our ability to persuade the international community is now diminished. So is our ability to draw in allies to join us in this effort. And the beneficiaries of our policies sadly have been many rogue nations. Like the boy who cried wolf, America now must overcome the damage done to our credibility by false claims that we laid before the world as the justification for the invasion of Iraq. At the same time, the dangers of terrorism to our Nation, our personnel, and citizens abroad, and our friends and allies have grown. The war in Iraq drained away financial resources, military forces, and intelligence experts from the war on terror. Osama bin Laden still remains at large, over 4 years after September 11. Where terrorists once had training camps to hone their skills, they now have a war itself in Iraq. Sadly, our soldiers are their targets.

Recently, the Director of National Intelligence released a letter apparently from Ayman al-Zawahiri, the No. 2 leader in al-Qaida, to Mr. al-Zarqawi, the group's top agent in Iraq. The letter provides a chilling portrait of a cold-blooded terrorist. I know many people will try to use this letter to solidify their arguments of why we need to stay in Iraq. I don't advocate a precipitous tomorrow-like withdrawal from Iraq. I think that would be disastrous. But the Zawahiri letter is one more piece of evidence that Iraq has now become a center of terrorist activity, whereas before the war it was not. The horrible irony of this war is that President Bush's invasion has created more energy behind terrorism in the Middle East.

The President is offering America a false choice when he says we have to decide between resolve and retreat in Iraq. We must not just withdraw, but we cannot simply stay the same course that has brought us to this place in time. If we simply withdraw now, the current instability in Iraq would balloon into a full civil war, and we will have produced another failed state, owned and operated by terrorists like the Taliban in Afghanistan. If we just keep doing what we have been doing, we will continue to spend American tax dollars and, more importantly, sacrifice the lives of our brave soldiers. We must take positive action to try to alter the strategic equation that has fueled terrorism and placed a heavy strain on our Army, National Guard, and Reserves, constrained our options toward Iran and North Korea, and cost us nearly 2,000 American lives in Iraq.

Diplomacy has to be part of this new campaign. Our military leaders make it clear, they cannot defeat the insurgency. The way to defeat insurgency is politically and economically and diplomatically. Right now there are almost no troops from Muslim nations who are fighting at the side of the Iraqi government. There are almost no Arab diplomats in Iraq. Secretary of State Condoleezza Rice must reach out to the Arab gulf states and others and convince them that a secure and stable Iraq is in their interest as well as ours and that they must assume some of the risk and burden of this enterprise. That is no easy sell, given the way we have approached this war to date. But it is an effort that we must undertake, along with the Iraqis themselves.

The President needs to let the Iraqi people know that we will not remain indefinitely in Iraq, and communicate that message to the rest of the world as well. The Iraqi government and its security forces need to prepare for assuming all the functions expected of them by a free and sovereign Iraqi people to defend their own nation so American troops can come home. The administration's admission, however, that only one battalion of the Iraqi army is capable of operating on its own does not really bring us any closer to meeting this goal. It is the responsibility of the administration to make it clear why we have not done better in training and preparing Iraqi soldiers to replace American soldiers, and it is the responsibility of this administration to train Iraqi security forces so that, in fact, our soldiers can come home. It is time for the people and leaders of Iraq to take control of their own country and their own destiny.

We are not abandoning Iraq. Indeed, we and Iraqis themselves must reach out to other partners, especially the predominantly Muslim countries, to collaborate in the consolidation of Iraqi security and democracy. We are not setting a date for departure. We are simply letting the Iraqis know, in the clearest possible terms, that we intend to bring our forces home. Reminding all concerned that we will not stay refutes the assertion that we intend to establish permanent military bases in Iraq, an allegation that, unfortunately, fuels the insurgency.

We should do nothing that would mislead the Iraqis into thinking they have unlimited time to take control of their own destiny. An unending American occupation is neither in Iraq's interest nor in ours. If the Iraqis made progress on Saturday, moving toward a constitution, moving toward a government, moving toward a nation, we must tell them that there is a responsibility of nationhood that goes beyond the obvious establishment of government. The most important responsibility is to secure your own borders, to protect your own people, to provide for the common defense of your own nation. Now that is a responsibility that must be shouldered by the Iraqis. If we are uncertain in speaking to this new Iraqi government about our plans and our timetable in Iraq, then I think they will count on American soldiers to be there risking their lives indefinitely. That is unacceptable.

This administration has to make it clear that Iraqi army soldiers are prepared to shoulder that burden and to give relief to American soldiers so that they can return home to a hero's welcome and to their families who wait anxiously for that day.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Delaware.

HURRICANE KATRINA RESPONSE

Mr. CARPER. Mr. President, today I rise to discuss how we could be doing better in our response to Hurricane Katrina. I just spoke with one of Louisiana's Senators coming over to the Chamber to speak, and the word that I heard with respect to the situation on the ground, particularly the response of FEMA to the ongoing crisis, was discouraging. We can do better. We have to be able to do better for the people there and for those who are footing the bill, the taxpayers.

Hurricane Katrina was truly an unprecedented event. It was in all likelihood the worst natural disaster in our Nation's history. It was certainly the worst natural disaster I have witnessed in my lifetime. I can understand then that there might be some mistakes made, that there might not be easy solutions to some of the problems faced by millions of Americans directly affected by this storm. But I believe there are too many key areas where we have experienced clear failures that just cannot be shrugged off. We have all heard about the slow initial response to the storm. We have also heard about the no-bid contracts that probably weren't necessary. But I am going to speak for a few minutes today about a truly distressing failure that is leading to hardship among Katrina evacuees and is also wasting a lot of Federal taxpayer dollars.

As my colleagues are aware, hundreds of thousands of gulf coast residents have seen their homes severely

damaged. Too many have seen them completely destroyed. Many of these people are still living far away from home, with little or no hope of returning to their communities any time soon, if ever. FEMA has moved swiftly in recent weeks to move Katrina evacuees out of temporary mass shelters that we saw in places such as the Astrodome in Houston. The problem is that many evacuees are still living in hotels today, waiting for FEMA to move them to longer term temporary housing. There have been a number of media reports recently that FEMA is currently spending millions of dollars every day to house hundreds of thousands of these evacuees in hotels around our country. The total cost of this program, according to the Washington Post this morning, will likely approach $200 million by the end of this month alone. Worse yet, FEMA has apparently not even been keeping track of the number of evacuees in hotels.

I ask unanimous consent that several articles on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 19, 2005]

A BIG CUT IN KATRINA'S HOTEL BILL

(By Jacqueline L. Salmon and Spencer S. Hsu)

PROGRAM EVACUEES WERE MISCOUNTED, RED CROSS SAYS

The American Red Cross said yesterday that it has vastly overstated the number—and potential cost—of Hurricane Katrina evacuees staying in hotel rooms because of errors in how it interpreted its data.

Embarrassed officials from the charity acknowledged that instead of housing 600,000 displaced people, the hotel program—paid for by the federal government—is housing 200,000 storm evacuees.

Red Cross officials attributed the error to the misreading of daily reports from a consultant handling the hotel placements: Staff members mistook a cumulative tally of people who had lived in hotels to date for the daily hotel population.

''Clearly, somewhere we went off the track,'' said Armond Mascelli, Red Cross vice president for domestic response operations.

Compounding the error, the Federal Emergency Management Agency kept no independent count of the program's beneficiaries or its costs, said FEMA spokeswoman Mary-Margaret Walker. She said FEMA apparently was relying on the erroneous numbers as it searched frantically for other housing options for evacuees.

The revision in the number of people in hotels could cut in half the $425 million estimate for the program. It is also prompting FEMA to reevaluate long-term housing needs for storm evacuees, said spokeswoman Frances Marine. This month, FEMA's acting director, R. David Paulison, estimated that 400,000 to 600,000 households will require mid- to long-term housing.

The Red Cross said yesterday that it now expects the program to cost about $220 million. FEMA does not pay for hotel rooms until it gets receipts, so the error has not cost the agency, Marine said.

FEMA officials said 1.6 million people have registered for assistance because of Hurricane Katrina and 700,000 people have sought help for damage caused by Hurricane Rita.

The hotel program, conceived by the Red Cross as shelters overflowed immediately after Katrina ravaged the Gulf Coast, has become the main housing program for evacuees.

This week, FEMA told housing industry representatives that it plans to move storm evacuees out of hotels and into a less costly rental-assistance program as soon as Dec. 1.

FEMA officials have concluded ''that it's going to be quite a while before a lot of people can actually go back. Therefore, keeping people in hotels and motels for any extended period of time doesn't make sense,'' said Jim Arbury, a senior vice president for the National Apartment Association and National Multi Housing Council.

Red Cross officials said they learned of the error after a New York Times reporter alerted them to it Monday night. It comes as the charity tries to raise $2 billion in private donations to cover its costs of caring for Katrina victims, a figure that does not include the hotel program.

The blunder is a black eye for the Red Cross that could taint the entire nonprofit sector, warned Paul Light, a New York University professor of public service.

''It's hugely embarrassing for the sector,'' Light said. ''I don't believe there is any malfeasance here. But . . . the notion that the Red Cross simply cannot track where the money is going feeds into this growing concern that charities cannot be trusted to spend their money wisely.''

[From the New York Times, Oct. 13, 2005]

$11 MILLION A DAY SPENT ON HOTELS FOR STORM RELIEF

(By Eric Lipton)

WASHINGTON, Oct. 12.—Straining to meet President Bush's mid-October deadline to clear out shelters, the federal government has moved hundreds of thousands of evacuees from Hurricane Katrina into hotel rooms at a cost of about $11 million a night, a strategy local officials and some members of Congress criticize as incoherent and wasteful.

The number of people in hotels has grown by 60 percent in the past two weeks as some shelters closed, reaching nearly 600,000 as of Tuesday. Even so, relief officials say they cannot meet the deadline, as more than 22,000 people were still in shelters in 14 states on Wednesday.

The reliance on hotels has been necessary, housing advocates say, because the Federal Emergency and Management Agency has had problems installing mobile homes and travel trailers for evacuees and has been slow to place victims in apartments that real estate executives say are available throughout the southeast.

Hotel costs are expected to grow to as much as $425 million by Oct. 24, a large expense never anticipated by the FEMA, which is footing the bill. While the agency cannot say how that number will affect overall spending for storm relief, critics point out that hotel rooms, at an average cost of $59 a night, are significantly more expensive than apartments and are not suitable for months-long stays.

Officials in cities from Dallas to Atlanta, which are accommodating thousands of evacuees, give credit for getting 90 percent of the victims out of shelters. But they say they are frustrated by FEMA's record in helping place people in more adequate housing.

''Deplorable. Disappointing. Outrageous. That is how I feel about it,'' said the Atlanta mayor, Shirley Franklin, a Democrat, in a telephone interview on Wednesday. ''The federal response has just been unacceptable. It is like talking to a brick wall.''

Even conservative housing experts have criticized the Bush administration's handling of the temporary housing response. ''I am baffled,'' said Ronald D. Utt, a former senior official at the Department of Housing and Urban Development and Reagan administration aide who is now a senior fellow at the Heritage Foundation, the conservative research organization. ''This is not incompetence. This is willful. That is the only way I can explain it.''

Nicol Andrews, a FEMA spokeswoman, said the federal government was moving as quickly as it could to find temporary housing. But the scale of the catastrophe has made it difficult, she said.

''Clearly we have never encountered the size and scope of a disaster like Hurricane Katrina,'' she said. ''Housing half a million people is a challenge by any standard.''

The American Red Cross started the hotel program days after Hurricane Katrina struck, when it became clear that the shelters it had opened were not adequate to deal with the 600,000 to 700,000 families displaced by the storm, a spokeswoman, Carrie Martin, said.

The hotel program was intended to last a couple of weeks but has twice been extended by FEMA. Now Red Cross officials are saying there is no end to the initiative, which pays for 192,424 rooms in 9,606 hotels across the United States, in a range of cities as diverse as Casper, Wyo., and Anchorage, Alaska.

Congress last month appropriated a $62.3 billion for the relief effort, most of it designated for FEMA. The agency had told Congress that it expected to spend more than $2 billion to buy up to 300,000 travel trailers and mobile homes to house displaced residents. The agency also planned to give out $23.2 billion in assistance to victims for emergency needs and for temporary housing and housing repairs.

But the temporary housing program has been troubled since the start, observers say. Instead of setting up as many as 30,000 trailers and mobile homes every two weeks, as of Tuesday, just 7,308 were occupied. Even counting berths on the four ships that FEMA has leased and rooms on military bases and elsewhere, the agency has provided only 10,940 occupied housing units for victims in the three Gulf states.

FEMA, reacting to criticism that it might create super-concentrated slums, has scaled back plans to build so-called FEMA villes with up to 25,000 trailers.

Even a less ambitious plan—complexes with 200 or so units—has been slow to unfold. FEMA officials cite the reluctance by some rural parishes or landowners to welcome evacuees.

But landowners and some state officials in Louisiana blame bureaucratic fumbles by FEMA. Bill Bacque, co-owner of a trailer park in Lafayette, La., said he offered property for 45 trailers within days of the storm. Negotiations with FEMA were still under way this week, he said. ''Things do not move fast,'' Mr. Bacque said.

Late last month, FEMA began handing out $2,358 for three months so that families in shelters or hotels could rent apartments.

To date, more than 415,000 households have been approved for that aid, totaling $979 million. But FEMA officials cannot say how many families have used the money for apartments, or simply spent it on expenses while also living in a government-financed hotel room.

David Degruy, his wife, Debra, and their six children, of New Orleans, have done just that while staying in two rooms paid for by FEMA at the Greenway Inn and Suites in Houston.

''We're trying to save the money so that when do get in a house we'll be able to buy things,'' Mr. Degruy said. ''We eat out sometimes, we buy clothes, personal hygiene things.''

Some officials criticize FEMA for a passive approach in dealing with cities and hurricane evacuees.

Representative Barney Frank, Democrat of Massachusetts, who sits on a House panel that helps oversee the housing effort, complained that it was unreasonable for the federal government to expect that a family led by jobless parents, with no car, little savings and little familiarity with a new city could independently find an apartment.

''The administration's policy is incoherent and socially seriously flawed,'' he said in an interview.

Real estate officials say that although there are few available apartments in Louisiana, there are many vacancies in apartment buildings across the South, including perhaps 300,000 in Texas alone.

''What are these guys doing?'' Jim Arbury, an official with the National Multi Housing Council, a group of building owners and managers, said of FEMA. ''All of this housing is available now.''

Some housing experts say the Bush administration should follow the approach taken after the 1994 Northridge earthquake in Los Angeles, when displaced residents were given prepaid housing vouchers instead of having to negotiate and pay a lease on their own.

''We are wasting money hand over fist because we did not deploy the right policy tools,'' said Bruce Katz, a vice president at the Brookings Institution, a liberal research group in Washington. ''We could have thousands, if not tens of thousands of families, in stable permanent housing right now. And we would not have to turn to these costly measures, like hotels, motels and cruise ships.''

Ms. Andrews, the FEMA spokeswoman, defended the housing policy. ''The program is designed to give those who it affects the most the control over their own lives,'' she said.

Some cities, including Houston and San Antonio, have taken an active role in helping families find housing by creating their own voucher program, identifying vacant units, paying for six-month leases and then turning over the unit to the evacuees. FEMA has promised to reimburse the cities for the housing costs.

''You can't just give people a check and say, 'Good luck, we will see you,''' said San Antonio's assistant city manager, Christopher J. Brady. ''It would not be a sufficient solution.''

FEMA officials said other cities can set up similar programs. But Mayor Franklin of Atlanta and Mayor Laura Miller of Dallas have said they cannot do so without being paid in advance by the federal government.

Expressing frustration that she could not offer more help to the 39,000 displaced people who have come to Georgia, Mayor Franklin said FEMA's expectations that her city could advance housing money were unrealistic.

''Our government is not large enough to do that,'' she said. ''We can't absorb the costs.''

[From the Washington Post, Oct. 12, 2005]

HOUSING AID CALLED TOO MUCH, TOO LITTLE

(By Spencer S. Hsu)

FEMA CRITICS CITE WASTE AS EVACUEES STRAN TO PAY RENT

The Federal Emergency Management Agency's evolving efforts to shelter Hurricane Katrina victims continue to waste huge amounts of taxpayer dollars and could soon leave many evacuees short of money and facing eviction, according to renter advocates and housing industry officials.

The concerns focus on FEMA's extension of an $8.3 million-a-day program to house 549,000 people in hotel rooms beyond an Oct. 15 deadline and its handling of a new rental assstance program, which offers displaced families a lump sum of $2,358 for three months' rent. The disaster agency has previously drawn criticism for its troubled $1 billion-plus effort to house hurricane evacuees in 125,000 trailers.

The National Low Income Housing Coalition, an advocacy group, said that ecause the rent program is based on the $786-per-month national median rent for a two-bedroom apartment—rather than city-by-city rates used by the Department of Housing and Urban Development—many evacuees taken to more costly cities are already short on cash. Typically, the coalition said, renters must pay a deposit and first month's rent; it cited Washington as an example, where the average rent is about $1,100 and where about 5,000 people have been resettled.

Apartment owners say they also are encountering problems collecting rents because FEMA hands money directly to storm victims, instead of using housing vouchers or payments to landlords as HUD does for some low-income renters. Some families that left their homes with only what they could carry have used FEMA's cash for food, clothing and transportation.

''We felt if we did the right thing, FEMA would step up and provide housing assistance for all these folks. Here we are four weeks later, and a lot of these folks simply do not have rent money to pay,'' said Kirk H. Tate, a member of Houston's Katrina housing task force and a parter at Orion Real Estate Services Inc., which manages 12,000 apartments in the city.

Houston authorities welcomed 20,000 Katrina households into rental units in as few as three or four days, mostly waiving deposit and rent requirements, Tate said. ''The last thihg we want to have to do is ask for them to move out when they can't pay the rent,'' he said, but property owners have mortgages, utilities and expenses to pay and may need to start eviction proceedings by month's end.

Benicha McCraney, 49, left New Orleans two days before Hurricane Katrina with two children and a suitcase holding three days' worth of clothes. Now the family lives in a $1,096-per-month two-bedroom apartment in a suburban Houston complex called Tranquility Bay.

She received $2,358 for three months from FEMA but estimates her monthly expenses at about $1,700.

With $1,500 in savings and her husband, a police officer, fearing he will be laid off in New Orleans, McCraney is worried about paying for children's clothes when the weather cools.

McCraney is not facing eviction yet, but having lost her home to floodwaters, she is postponing replacing the worn tires on her car. ''I would like to stay here as long as I can,'' she said. ''I don't have anywhere else in the world to go.''

The warnings come as a wide range of players in the nation's housing and lodging industries express mounting exasperation with FEMA's shifting efforts to cope with the evacuee crisis. Although the administration has proposed cruise ships, trailers, President Bush's nascent ''urban homesteading'' initiative, hotels and now apartment grants, they say FEMA is ignoring advice from experts inside and outside the government.

''The normal FEMA programs just aren't working. They may be good for 1,500, 2,000 people, but when you're talking a half a million, they do not work,'' said Douglas S. Culkin, executive vice president of the National Apartment Association.

Culkin said 1 million rental units are vacant in the southeastern United States at half the rate of FEMA's $1,770-a-month hotel program. He called the current spending rate of $250 million a month ''a horrendous waste of tax dollars.''

Linda Couch, deputy director of the low-income housing coalition, agreed that taxpayer money could be saved by using vacant apartment units. ''If the federal government made a choice to subsidize them at the rents they are available at, it looks like it still would be less than having them live in a hotel,'' she said.

FEMA spokeswoman Nicol Andrews said that the agency's rental aid program can be extended to 18 months. If renters keep receipts and show that their housing costs exceed $786 a month, FEMA will allow them to spend more on rent, Andrews said. But Congress has set a $26,200 limit per family for FEMA aid of all kinds, including home repairs, for Katrina victims.

Andrews acknowledged that the trailer process is not moving as fast as the agency would like. She declined to comment on criticism from the housing sector but noted that FEMA is establishing huge new programs and that shelter populations have dropped 75 percent in two weeks.

The scale of Katrina's exodus is immense and growing. On Thursday, FEMA's acting director, R. David Paulison, increased the agency's estimate of the number of families expected to need housing for up to several months, from 300,000 to between 400,000 and 600,000.

FEMA said Friday that the number of people in temporary shelters, which Bush has pledged to clear by mid-October, has fallen to 31,500 from a peak of more than 300,000. FEMA is providing rental assistance to 412,000 displaced households and has registered 2 million storm victims.

''The recovery process for Hurricane Katrina will be neither fast nor easy,'' Paulison said. ''Many . . . rightfully are concerned about the cost, as we all are.''

Critics in Congress and elsewhere have focused on large trailer contracts and the difficulty FEMA has encountered in acquiring trailers and sites for trailer parks. So far about 6,800 FEMA trailers are occupied by emergency workers and evacuees across the Gulf Coast. Some also have criticized spending $236 million to house 7,000 people on three Carnival Cruise Lines ships.

Last week, three major national apartment owner associations criticized FEMA for ignoring their offers of help and expressed bewilderment over why the agency extended the hotel program. The average room rate of $59 per day is more than twice the cost of rental vouchers in HUD's low-income Section 8 housing program and the rental aid provided by FEMA and HUD to Katrina victims. It also exceeds the median monthly rent in some of the nation's most expensive cities.

The groups cited 50,000 vacant apartments in Dallas-Fort Worth alone and 1 million in the southeastern United States at rents that range from $700 to $1,200 a month— vacancy totals confirmed by others outside the industry.

''Our message is simple. There are currently tens of thousands of available rental units that would offer evacuees the opportunity to more quickly recover from their devastating losses,'' the National Multi Housing Council, the National Apartment Association and the National Leased Housing Association wrote to HUD Secretary Alphonso Jackson and Homeland Security Secretary Michael Chertoff. ''To extend the hotel program indefinitely prolongs homelessness and makes no sense,'' they said.

Housing officials point to the city of Dallas's Project Exodus as an example of better planning. It has placed about 1,000 people in 481 apartments using $2.5 million raised through contributions by individuals and large companies. The units rent for HUD market rates, including utilities. Although city funds are set to expire after 60 days, Dallas expects FEMA to pick up costs after that.

Houston also has agreed to pay up to 12 months of housing assistance for Katrina victims, hoping for FEMA reimbursement, Tate said.

About 37,000 evacuees are in Dallas area hotel rooms, said Miller, and more than 150,000 evacuees are in rooms across Texas.

''We said, We can't wait for FEMA,''' said Dallas Mayor Laura Miller. ''What worries me is reading about all these other cities who are waiting for trailer homes to show up so they can re-create these trailer villages. That would be the worst thing you can do.''

Mr. CARPER. While it is certainly reasonable to house evacuees in hotels on a short-term basis, this situation is simply unacceptable nearly 2 months after Katrina struck the coast. I am told that real estate and housing experts have pointed out that perhaps hundreds of thousands of suitable and likely much more affordable apartments could be had throughout the gulf coast region. I am certain that they could probably be had for significantly less than the cost of a hotel room. In addition, the Washington Post recently reported that a joint FEMA–HUD rental assistance program is likely wasting millions of dollars. In at least some cases, the program is not doing much to help evacuees in some parts of the country find suitable housing.

Each evacuee participating in the voucher program, according to the Post, initially receives a subsidy amount based on the national median rent for 3 months. In some parts of the country, such as Houston, the national median rent probably isn't enough to find suitable housing. In other communities, it might be more than enough. This means that Katrina evacuees in some parts of the country may be getting more assistance than they need, and those in higher cost areas might not be getting what they need to provide for their families.

It has been suggested that the solution to the housing crisis in the gulf might be to place evacuees in trailers or some other form of manufactured housing. But I have heard reports that FEMA is buying many of its trailers straight off the lot at retail prices. I have also heard that there are thousands of trailers just sitting around unoccupied in vacant lots. We have all heard stories about how miserable some of the trailer camps are to live in that FEMA has set up in places like Florida.

We can do better than this. FEMA owes it to Katrina victims and to the American taxpayers to find a more comfortable, less expensive way to house our fellow Americans who are going through such a difficult time right now. That is why I am sending a letter today to Acting FEMA Director David Paulison to ask him to tell us exactly what FEMA's plan is to get Katrina evacuees out of hotels and into more stable living environments so that they can begin the process of bringing their lives as close to normal as possible.

The problems and the waste we are seeing in FEMA's Katrina housing program remind me yet again that we need to do some work to ensure that the money we are spending to help Katrina victims is spent wisely and effectively. To date we have approved in the Congress $62 billion for Katrina. More money will probably be needed, but given the number of stories we see almost on a daily basis now about financial mismanagement, about confusion at FEMA, and the Department of Homeland Security, we should not be writing a blank check.

A recovery effort this large needs additional oversight to make sure the money we are spending is going to the people who need it most, to make sure we eliminate wasteful spending and get the most bang for our buck, and to make sure we reduce the potential for fraud.

It is my understanding that we are not sure what legislation is coming to the floor next week. I have a suggestion. The Homeland Security and Governmental Affairs Committee, of which I am a member, approved two bills a couple of weeks ago that I believe are desperately needed to make sure Katrina recovery funds are spent properly and go to the people who are most in need.

One of the bills we passed would appoint a chief financial officer to oversee the day-to-day use of Federal funds in the cleanup and reconstruction efforts underway in the gulf. I cosponsored this legislation with Senator COBURN of Oklahoma and Senator OBAMA of Illinois. It enjoys bipartisan support, including the cosponsorship, I believe, of both the Republican leader and Democratic leader of the Senate.

The chief financial officer would oversee the various Federal agencies involved in the recovery efforts and hold them financially accountable. The CFO would be Congress's personal watchdog, issuing periodic financial reports about whether the money is going to the people who need it the most and whether it is being used to hire local workers who need jobs.

The second bill would expand the authority of the inspector general assigned to Iraq reconstruction to oversee the Katrina recovery efforts. The expanded office would audit recovery operations and investigate allegations of waste, fraud, and inefficiency.

Together, these two bills would better protect American taxpayers and bring some much-needed accountability to the recovery efforts.

We shouldn't settle for the stories we see in the papers every day about the lack of decent housing for Katrina victims or the lack of competition for Federal contracts. We shouldn't read stories about waste and resign ourselves to the fact that waste is just something that happens in the Federal Government. We can do better, and we must. We owe it to the American taxpayers to do better, and we owe it to Katrina's victims to do better.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask permission to speak in morning business until Senator BROWNBACK arrives.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. GRAHAM. Mr. President, I think it is appropriate this morning that those of us in elected office, and every American, show some appreciation for what is going on in Iraq this morning.

I turned on the television and saw a new face of Iraq. I saw a judge schooled in the law, loyal to the law, presiding over a trial of Saddam Hussein, a person who was schooled in thuggery, loyal to himself and his agenda, one of the most brutal murderers the Middle East has known. And I saw an attorney general laying out the case against Saddam Hussein.

How did that all happen? It happened through sheer will. First, violence had to replace diplomacy because diplomacy was failing. The effort to contain Saddam Hussein's regime, to rein it in, to clearly understand what his purposes were about weapons of mass destruction, to get him to stay out of the upheaval of the Middle East, to be a productive member of the Middle East society, the world community, in my opinion, failed miserably and we had to resort to force and violence to oust a man who had perpetuated many crimes against his own people and his neighbors.

How did it happen, at the end of the day? It happened through the bravery, commitment, and sacrifice of the American military, their coalition partners, and the Iraqi people themselves.

We have lost around 2,000 troops since the war began. To those families who have lost loved ones, there is nothing I can say other than I am sorry and, in my opinion, for what it is worth, your loved ones have advanced the cause of freedom by participating in a military operation to take Saddam Hussein off the throne and into the dock as a defendant.

To those coalition members who have stood with us and who have sacrificed, thank you. Because of your sacrifice, the cause of freedom has been advanced.

We do not appreciate enough, in my opinion, the sacrifice of the Iraqi people. I believe it is the judge or one member of the court whose brother was assassinated. To sit in judgment of Saddam Hussein is no easy thing to do. They are literally risking their lives to be a prosecutor, a policeman, or member of the army. They wear a target on

their back. Their families are at risk because the terrorists see it as a risk to their way of life. Those who take up arms against the terrorists in Iraq are literally changing the course of history.

To those men and women who have served in the American military, those who have lost life and limb, I hope you take pride in what is happening today. To the families of the loved ones who have been lost, those who have been injured, and those who are still serving, because of your sacrifice and commitment, your willingness to leave your comfort zones, to leave your family and friends, Guard members and Reservists leaving their businesses and loved ones behind, you have changed the course of Middle East history.

At the end of the day, we can't kill enough terrorists to win. Terrorism is about hijacking of a great religion. There is no place in the terrorist world for a different faith, people of moderation in the Islamic community, and there is no role for a woman. For that to change, it is going to have to be deeper than force of arms. It is going to have to be a transformation of a culture.

The culture of the rule of the gun versus the rule of law is happening before our eyes. What is going on today in Iraq is a sea change in the Middle East. It is about time a dictator in that region answers for his crimes. It is about time people in that region be allowed to live their lives in a normal fashion and raise their kids in peace.

That day is still far away, but we are closer than we have ever been. So to those men and women serving in our American military and those who have suffered, congratulations and God bless. Because of your sacrifice and those sacrifices of our coalition partners and the Iraqi people, there has been a sea change in the Middle East and you deserve all the credit.

I hope the American people will be patient to see this thing through because what happens in Iraq is directly related to our own security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I have come to the floor to make a statement about the situation taking place in Darfur and to update my colleagues. But I wish to speak briefly to my colleagues and to others about the amazing trial of Saddam Hussein that has started.

This is a trial that is going to reveal a great deal about what took place, the carnage that happened under his rule, and what he did to the people of Iraq. I worked with a number of Iraqi dissidents over a period of time. The things they reported—the mass graves, the persecutions, the intimidation by this Government of Saddam Hussein—is something that has not been well revealed. Hopefully, that is going to come out in this trial. We will see change as it progresses.

DARFUR

Mr. BROWNBACK. Mr. President, I wish to update my colleagues on what is taking place in Sudan in the Darfur region. This is something about which I spoke several times in this Chamber. It is a genocide as the Senate, the House, and the President declared it a genocide. Others at the U.N. call it crimes against humanity. Under either definition, it is a horrific set of circumstances that has occurred in that region. Yet the response to date has still not been effective. People are continuing to be killed and slaughtered and run out of their villages, and the African Union troops have not succeeded in securing peace in that region. I want to update my colleagues about what is taking place.

The mandate of the African Union troops—and this is the African countries that have formed the African Union force—is simply to monitor and report on the current cease-fire. That is insufficient. I am going to detail why it is insufficient and what has happened because of their insufficient mandate and rules of engagement not being appropriate for the circumstances.

To date, they have largely written and filed away reports. Without a mandate robust enough to protect the civilians or prevent violence or assistance robust enough to provide a well-sized and equipped force, there is not much hope for the people seeking safety in Darfur.

A few weeks ago, the African Union came out with their strongest statement regarding the violence. This was a clear call for the international community to shine the spotlight on this crisis and to realize the implications it will have on the entire region.

While the parties are engaged in the sixth round of peace talks—and that is progress; we do have peace talks engaged in by the people in Darfur, the Government in Sudan, the jingaweit militia that has been given equipment by the Government in Sudan—violence continues to take place even as these peace talks move forward.

In the last few weeks, attacks have been carried out by the jingaweit militia, the Government forces, and the rebel movement—all three. The African Union announced:

> You would recall that in the past one month, we witnessed a series of violations in Darfur, with widespread violence against villages, commercial and humanitarian conveys, and even IDP camps.

These are camps where individual citizens are going to get away from the raids and carnage.

> This rendered the work of the humanitarian agencies and NGOs in the area difficult and, in some cases, they were forced to suspend their activities.

There was an unprecedented move against IDP camps and the first reports of the Government of Sudan's use of helicopters since January. A number of coordinated attacks has been reported since mid-September involving hundreds of jingaweit militia—this is the militia armed by the Government of Sudan—and Government forces working together killing and injuring many and displacing thousands more. Just this week, a number of civilians were killed in fighting that took place in the town of Kutum after a rebel and Government force clashed.

The African Union articulates:

> A clearly premeditated and well rehearsed combined operation was carried out by the Government of Sudan military and police at approximately 11 a.m. in the town of Tawilla and its IDP camps in North Darfur. The Government of Sudan forces used approximately 41 trucks, 7 land cruisers in the operation which resulted in a number of deaths, massive displacement of civilians and the destruction of several houses in the surrounding areas, as well as some tents in the IDP camp.

In addition to these violations, there are reports that the Government of Sudan has painted their military trucks in the African Union colors, making it extremely difficult for civilians to distinguish between monitors or attackers. All parties have violated the cease-fire agreement on several occasions since it was established in 2004. Conditions for humanitarian organizations remain extremely difficult. This week, the United Nations announced its plan to withdraw all nonessential staff from Darfur.

In addition to an upsurge in violence by the Government and the government-backed jingaweit militia, I am very troubled by the recent violence aimed at the African Union by rebel groups. In particular, the recent kidnappings and killings of African Union troops should be strongly condemned and swift justice should be brought to the perpetrators of these crimes. The African Union has called for these events to be brought to the attention of the Security Council in their communique of October 10 of this year.

The New York Times reported yesterday that some of the once-government-backed militia groups are fracturing and targeting government-run entities, such as police stations. Infighting amongst the rebels is another common hurdle to achieving peace. This is the chaos that has plagued Darfur.

Ambassador John Bolton's recent decision to block the UN Envoy on Genocide from testifying before the Security Council has undoubtedly raised some eyebrows. However, if he means what he says—that actions speak louder than words—then I urge the Congress, the administration, the United Nations, and the international community to do something. I applaud Ambassador Bolton's recognition of the fact that the current arms embargo is not adequate, it must be expanded, and there must be compliance.

I urge my colleagues to consider these recent events and to redouble our efforts to bring an end to the genocide that is happening as I speak. I urge my colleagues and the chairman of the

Foreign Relations Committee to quickly report out the Darfur Peace and Accountability Act. I have not spoken directly to it, but I will speak about getting this act passed. We need to get it put into law.

This legislation increases pressure on Khartoum, provides greater support for the African Union mission in Darfur to help protect civilians and impose sanctions on individuals who are responsible for the atrocities, and encourages the appointment of a U.S. special envoy to help advance a comprehensive peace process for Darfur and all of Sudan. It also calls for the United States to push for a strong Security Council resolution, amongst other things, that expands the arms embargo.

We can no longer remain indifferent to the suffering Africans of Darfur. We must move beyond the politics and agree on the fundamentals that will help save lives immediately. It is quite simple. When the ''never'' is removed from ''never again,'' it will happen—again and again and again. We cannot be silent and inactive on Darfur as people die.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

CONGRATULATING THE PEOPLE OF IRAQ

Mr. ALLARD. Mr. President, I rise to congratulate the people of Iraq on writing another chapter in the history of their nation. After the coalition forces toppled Saddam's oppressive regime, many believed it would take years until the Iraqis would be in control of their government apparatus. They were wrong. On June 28, 2004, the transfer of power took place and Iraqis became the rulers of their nation. On January 20, 2005, millions of people, including women, risked their lives to choose the members of a temporary Parliament responsible for drafting the new constitution. This past weekend, millions of Iraqis lined up to cast their ballots in more than 6,000 polling places across Iraq.

The Iraqi people's vision of a free and stable Iraq led them to an important milestone—voting on a democratic Iraqi-written constitution. Last weekend, through will and determination, more than 60 percent of the eligible voters in Iraq chose to speak up against tyranny and oppression—a higher percentage of voter turnout than in the 2004 U.S. Presidential election.

What we saw in Iraq on October 15, 2005, proved that even those oppressed for decades will peacefully choose their own future when given a chance to participate in a fair and open electoral process.

There had been much speculation that a majority of Sunnis would boycott the referendum. However, until the last few days before the vote, leaders of the Shi'a and the Kurds worked relentlessly to convince their Sunni countrymen and women to vote either for or against the constitution. Their work came to fruition when millions of Sunnis lined up to cast their ballots and decide the future of their country.

While many Sunnis voted against the proposed constitution, the referendum sent a clear message that all Iraqis are willing to invest in the democratic process.

By casting their ballots, millions of Iraqis also sent a strong message against terrorism. Ideology of hate has no place in the world, no place in Islam, and most certainly no place in Iraq. Terrorists' tactics of striking innocent men and women and children are despicable and cowardly. Terror has not derailed the political process, nor the establishment of the rule of law. Despite fears of retaliation by al-Qaida and other terrorists, millions of Iraqis chose to participate in the process that will decide the future of their nation.

The Iraqi security forces have also started to make a significant difference. According to our military leaders and officials on the ground, the Iraqi security forces were clearly in the lead in securing polling sites around the country. Backed by the coalition forces, the Iraqi military presence was increased by 35 percent since January. Press reports indicated that scattered instances of violence were quickly suppressed by the Iraqis.

This accomplishment indicates the willingness of the Iraqi security forces to stand up to insurgents and protect their fellow countrymen. With each Iraqi soldier trained and equipped to carry out the mission, Iraq draws closer to be able to stand on its own and protect Iraq's freedom.

As they have learned the power of the ballot box, Iraqis will soon be experiencing the strength of the rule of law during the trial of Saddam Hussein that convenes today. Only a couple thousand years ago, thousands of Iraqis—including women and children—were killed, tortured, and wrongfully imprisoned. Nevertheless, the current Iraqi Government fully understands the importance of a fair trial and the precedents it will establish. As a result of these advancements in Iraq, the country's most brutal dictator will face trial by a jury of his peers, a trial that thousands of Saddam's victims never received. The world will pay close attention as the Iraqi judicial system moves forward with this challenge. I am confident the Iraqis will adhere to the highest standard of the rule of law to reach a proper conclusion.

Today, the successful referendum in Iraq would not have been possible without our brave men and women in uniform who were called by our Nation's leaders to perform a noble but difficult task. Their commitment and dedication to peace and prosperity around the globe has never been more evident. Nearly 150,000 soldiers, sailors, airmen, and marines are deployed in Iraq, doing their duty with pride, patriotism, and perseverance. Our success in Iraq and Afghanistan has not come without cost. Those who have fallen have served a cause greater than themselves and deserve a very special honor. My heart goes out to the families whose sons and daughters have made the ultimate sacrifice.

The people of Iraq have clearly spoken of their desire for a free and democratic Iraq. The terrorists understand that their only chance is to break the will of the American people and force us to retreat. We will not waver in our support of the Iraqi people. We will not waver in our support of the democratic process and the rule of law. And we will not waver in our cause for freedom in a land that has known nothing but oppression. The lessons learned in previous world conflicts have proven that when the stakes are so high, we must remain firm, resist the enemy, and fight until the war is won.

Mr. President, our Nation has a leader who has made it clear that winning the war on terror is a defining moment for the civilized world. Since September 11, 2001, President Bush has taken bold steps to ensure the safety and the security of the United States, especially against terrorist organizations and the nation states that support them.

Specifically, since President Bush has taken office, the United States, under his leadership, has—and I would like to list a number of successes against terrorist organizations—overtaken two terrorist regimes, rescued two nations and liberated some 50 million people; captured or killed close to two-thirds of known senior al-Qaida operatives; captured or killed 45 of the 55 most wanted in Iraq, including Iraq's deposed dictator, Saddam Hussein; hunted down thousands of terrorists and regime remnants in Afghanistan and Iraq; disrupted terrorist cells on most continents and likely prevented a number of planned attacks.

This is an astounding record of accomplishment for our Commander in Chief, his national security staff, and the phenomenal men and women of our military services. The United States went to war in Afghanistan and Iraq, risking significant loss of life and treasure to protect our way of life. Our goals are clear and twofold: Destroy the nexus of terrorism and weapons of mass destruction that personified the two ousted regimes and create in their stead stable, democratic states able to participate in the modern world today. And we see the results of that successful effort in both Afghanistan and Iraq. We succeeded in our first goal, having killed or captured perpetrators and supporters of the enemy terrorists.

As I discussed previously, the courageous people of Afghanistan and Iraq are making remarkable progress toward adoption of constitutional reforms to secure momentum for a lasting democratic independence. Our Commander in Chief deserves recognition for these achievements. America

is safer because he took action, and the world will be a better place when the foes of freedom are defeated. We must stay the course and follow through with determination and perseverance. We must turn to those who doubt our mission and speak of the tremendous courage being shown by the Iraqi and Afghan people who are just beginning to enjoy the fruits of freedom. We must constantly thank our men and women in our Armed Forces who have so valiantly served our Nation, and we must remind ourselves that the global war on terrorism is not about religion or ethnicity; it is about freedom and whether we will allow others to dictate our freedom. We must not give in to the ideology of terror, and we must remain committed to those who need our assistance so much.

As we review the history of Saddam Hussein as he begins standing trial today, I view with optimism the ability of the Iraqi people to conduct a fair and just trial. They face a history of continued inhumane actions by a ruthless dictator in Saddam Hussein for thousands upon thousands of people who were massacred and killed for no real, apparent reason other than the fact that they disagreed with Saddam, who was the ruthless dictator in charge.

History takes us back many years. Saddam came into power a number of decades ago, and during that time we saw a record number of injustices that occurred to the Iraqi people. We saw, in 1980, the persecution of the Faylee Kurds. We saw, in 1983, the Kurdish massacres targeted against Barzanis and the KDP. In 1988, we saw the Anfal campaign. As many as 182,000 people disappeared during this time period.

In 1988, we saw in Halabja the Saddam regime launched chemical attacks against more than 40 of its own villagers. On March 16, 1988, the regime dropped sarin and VX on the town of Halabja, killing more than 5,000 people and injuring thousands more. Many of the survivors suffered long-term medical complications, and thousands died. There have been significant instances of birth defects in children born to parents of Halabja, and many are still suffering from the effects of the attack.

In 1991, during the Shi'a uprising in the south, the regime brutally massacred tens of thousands of soldiers and civilians. Also in 1991, once Kurdish autonomy was declared, many Kurds living below the green line were massacred, leaving mass gravesites in the Kirkuk region. In 1991, with an uprising in Najaf, we saw again the demonstrated brutality of this regime. As it put down the uprising, many of the perpetrators were rounded up, were arrested, and many of the participants who were placed in jails were tortured.

The Marsh Arabs, whose people had lived for thousands of years in the longstanding Marsh Arab area, were forced to leave the land after it was no longer cultivable and habitable because the regime decided to divert their waters to other sources.

All Iraqis who opposed or questioned the leadership of Saddam Hussein, whether Shi'a, Sunni, Christian, Kurd, Turkoman, or other, were systematically intimidated, tortured, and executed during the regime.

We are now in a new chapter of the trial of Saddam Hussein. Many of these atrocities will come to light. As I mentioned earlier, I have a lot of faith in the Iraqi people, that they will conduct the trial in a responsible way following international law and also, in some instances, applying their local law.

The credit for freeing the Iraqi people I think goes to the men and women in the Armed Forces, it goes to the American people who have shown perseverance through this period of time, and also to our President, our great leader, who has demonstrated strong leadership not only in America but across the world in this fight for freedom. The real beneficiaries are going to be the Iraqi and the Afghani people.

I, along with many other Americans, will be watching as the trial runs its course. This is not going to be an American trial or any kind of world trial, although international procedures will be followed. But it will be a trial that will reflect the freedoms of the Iraqi people and reflect their form of justice.

I wish the Iraqi people well. I commend our President for a job very well done. Again, I want to recognize the sacrifice and commitment of our men and women in the military who have been so brave and forthright, and have done overall a great job in representing America on the battlefield in their fight for freedom.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, parliamentary inquiry: My understanding is the time at this point had been reserved for statements regarding the elections in Iraq. Am I correct? What is the time remaining?

The PRESIDING OFFICER. Morning business time has now expired.

Mr. WARNER. I ask unanimous consent the time be extended for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, my distinguished colleague from Colorado has spoken very eloquently with regard to the elections in Iraq. I would like to add a few thoughts of my own, for it was truly a momentous event in the sense that a nation which had not had any government since 1920 was given the opportunity to begin its course toward joining the nations of the free world to have some form of democracy of their own choosing—and I underline that: Of their own choosing. They thereby take a place in the world with a responsibility for securing the basic freedoms people worldwide desire.

On Saturday, October 15, 2005, the Iraqi people, once again, following their historic election in January of this year, took another significant step forward in Iraq. We saw millions of Iraqis indicate their willingness to embrace the democratic process by virtue of their voting. There was a strong turnout nationwide, a significantly higher turnout than we anticipated in certain areas. This turnout, particularly in the Sunni regions, is more remarkable because it was often in the face of insurgent intimidation.

We all observed three important signs of Iraqi progress in the events of October 15th. First, the electoral process proceeded as planned. Insurgent efforts to disrupt the elections that were attempted throughout the summer and right up to the elections simply did not succeed.

Second, Iraqi Government's outreach to Sunni leaders during the constitutional drafting process is having an effect. Prime Minister al-Jafari said, ''The victory for Iraq is that Iraqis are voting.''

Third, the Iraqi security forces provided protection to more than 6,000 polling sites. I cannot overstate the importance of that. The United States, together with its coalition partners, worked hard for some 2 years now to establish a military and a police force. I would say, having followed this very carefully in the Armed Services Committee, that significant progress has been made in the last 120 days. We have established criteria to assess the quality and the professional level attained by these individuals, and how best to integrate them in the overall security framework needed to preserve and protect the Iraqi people and preserve their sovereignty. Real progress has been made. The voting day was an example of how they perform. At the polling sites, security was primarily the responsibility of either the Iraqi police or the national forces. It was clear and visible that the Iraqis took the lead in this effort. No security incident appeared to affect voting. The level of security breaches was far below the high of some 300 breaches during the January election of this year. I believe there was less than 20 incidents total that tried to disrupt the election, but all failed to affect the casting of votes at these polling places.

We have no confirmed figures on the results yet. We, the world, await the outcome. Newspapers throughout the world carry reports of the importance of the election and saluting those who made it possible—not just the security forces but also the United Nations and other international organizations which came in and supervised this historic day. Basically the streets were calm. In some places there were mild celebrations.

Last month, for example, in Tall Afar in northern Iraq, coalition and Iraqi forces were engaged with insurgents for control of that city—a bitter battle. It is interesting that on Saturday the Independent Election Committee of Iraq estimated that 80 percent of the registered voters in that community

voted. Therefore we must praise the efforts of the Iraqis, the U.S. civilian and military personnel, all those of our coalition partners and those of international organizations for planning and executing an electoral referendum in such a challenging environment. The United Nations chief electoral adviser in Iraq said:

The process has gone so smoothly and well, from a technical point of view.

The Vice Chairman of the International Mission for Iraqi Elections, a coalition of electoral monitoring bodies, praised the referendum for its legal framework, planning, and logistics. Now the world will await the final result, due hopefully later this week. The Independent Electoral Commission in Iraq is supervising this process and will announce an official tally after votes are counted at a central location overseen by the United Nations election advisory team to ensure that international standards are being met.

There are, no doubt, difficult days remaining ahead. Generals Abizaid and Casey told the Congress, the American people, and indeed the whole world, just that in appearances throughout the United States last month. Both men were confident that we are moving in the right direction. We saw that progress this Saturday and we salute them for their leadership and their participation and their responsibility in achieving the results that came about on Saturday.

If the constitution is ratified, Iraqis will vote again on December 15. This time they will vote for a permanent government to take office on December 31. That leaves 60 days, basically, between now and December 15. It will be a very unusual period in the history of Iraq, in that many of those in this current government, the interim government, will be seeking office in that election. So we have to exercise a degree of patience as we watch them, as they pursue their political campaigns at the same time they have official duties to maintain a government and serve the needs of the people of Iraq—whether it is the power, whether it is the water, whether it is the security. All of those things must be maintained during this interregnum until the election takes place.

Then, following December 15 there is basically a 60-day period as established under the law that they have adopted. There is a 60-day period in which that government must replace the existing one and take the reins of authority and govern Iraq for a period of 4 years—truly a permanent government.

As this political situation matures, so too will the Iraqi security forces, and I am confident we will see a continued strong pace to obtain the needed numbers of trained police, border security, internal security, national guard, and a standing army to provide that nation with protection for its sovereignty and internal protection from the insurgents. With an Iraqi permanent government in place and steady progress in these security forces, I see—and I want to say with great caution—an opportunity, following the first of the year, to begin to review our present force structure and to consider such options as will hopefully be available to lessen the size of our overall troop presence.

Watching Iraqis vote, we as Americans should be especially proud of the contributions of those men and women who proudly wear the uniform of the United States. When I speak with them in Iraq, as I did weeks go on my sixth trip, and in Afghanistan, they know the importance of what they are doing.

I would like to underline that. Individually, they know and understand the importance of the mission which they, as members of the all-volunteer force of our military, have undertaken. Together with the commitments in support of their families back home, they are performing brilliantly in Iraq, Afghanistan, and all across the world, protecting the security of this Nation and the security of our principal allies.

We will continue to demand from these people as we always have, but they are like generations before them, answering a call to duty to defend the values and freedoms we cherish. We wish them well. We wish the blessings of the Almighty on them and their families. We have taken heavy casualties in this conflict, both in terms of lost lives and wounded. Not a day goes by that those who are privileged to serve in this Chamber do not have that foremost in their minds, as do most Americans.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Journal clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3058, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3058) making appropriations for the Department of Transportation, Treasury, and Housing and Urban Development, the Judiciary, the District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Kennedy modified amendment No. 2063, to provide for an increase in the Federal minimum wage.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair. I note that my partner and comanager of the bill, the Senator from Washington, and I are here and ready to do business. We were ready to do business yesterday. We had one rollcall vote. There were more than 40 amendments filed yesterday. I know there are many others who have or are thinking about amendments. But we have enough work to do now if Members will come forward and offer their amendments that are filed or talk with us to see if they can be accepted.

We would like very much to move forward on this bill today, and perhaps complete work on it by 8 o'clock tonight when the baseball game is on television. But hope springs eternal. We would love to see Members come forward. I think more are ready to go.

Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2113

Mr. BOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2113.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Limits the availability of funds under this Act for use in paying for eminent domain activities)

Insert the following on page 348, after line 5, and renumber accordingly:

''SEC. 321. No funds in this Act may be used to support any federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: Provided, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: Provided further, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of blight (including areas identified by units of local government for recovery from natural disasters) or brownfields as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. Law 107–118) shall be considered a public use for purposes of eminent domain: Provided further, That the Government Accountability

Office, in consultation with the National Academy for Public Administration, organizations representing state and local governments, and property rights organizations, shall conduct a study to be submitted to the Congress within 12 months of the enactment of this Act on the nationwide use of eminent domain, including the procedures used and the results accomplished on a state-by-state basis as well as the impact on individual property owners and on the affected communities.''.

Mr. BOND. Mr. President, there has been much discussion with many Members who are interested in this. I am filing it now, and I will ask unanimous consent that others who wish to be added as original cosponsors add their names. But I wanted to get it here on the floor so everybody could have a chance to look at it. We will shortly set it aside because I think we are perhaps ready to go forward with the minimum wage amendments.

At this point, permit me to explain what the amendment is about.

This amendment is in response to the U.S. Supreme Court case, Kelo, et al. v. City of New London, et al., in which the Court upheld by a 5-to-4 majority decision the use of eminent domain by the city of New London, CT. The Court noted that New London utilized a comprehensive plan that seeks to revitalize the city by using the land occupied by some 115 privately owned properties as well as 32 acres of land formally occupied by a naval facility to accommodate a $300 million Pfizer research facility, a waterfront conference hotel, a ''small urban village,'' as well as 80 new residences. The opinion seems to rely on ''affording legislatures broad latitude in determining what public needs justify the use of the takings power.''

The opinion also notes that nothing precludes any State from placing further restrictions on its exercise of the takings power.

As discussed by the four-Justice dissenting opinion, this majority opinion goes much farther than the facts of the case and would essentially allow the use of eminent domain in virtually any circumstance where the locality believes some benefit could be derived.

In particular, the four-Justice dissenting opinion concludes that ''under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner so long as it might be upgraded—i.e., given to a owner who will use it in a way that the legislature deems more beneficial to the public—in the process.''

There are a number of problems that have already been raised in the eminent domain field. I say none are more striking than the proposal by a developer to condemn the land on which the home of one of the Justices in the majority opinion sits to put a new hotel and the Lost Freedom Bar on his property.

In my State of Missouri, we have seen the use of eminent domain for a private purpose having tremendously harmful impacts in the Sunset Hills community in St. Louis County. Eminent domain was used by a private developer to condemn a large number of homes, forcing the residents out of their homes. The residents, in expectation of being forced out of their homes, purchased other houses. They began to move into other houses. The private developer went broke. Now these people are stuck with two mortgages, and the place they left is being declared a blighted area because everybody has left.

This has had a double impact, not only on the homeowners who were forced to take out a second mortgage but on a community which now is blighted, and some enterprising developers are seeking tax subsidies and other help to renovate a blighted property.

I believe most of us—and certainly the people I listen to in my home State of Missouri—believe this is absolutely wrong.

When you look at the New London case, you see how a tragic result can occur under the Kelo decision if legislatures do not act. The Governor of Missouri has called for a task force to study eminent domain.

I believe we have responsibility here to make sure that Federal funds are not used in the taking of property for a private use and utilizing Federal funds to bolster that effort.

In the Kelo case, the dissenting opinion notes that the petitioners are nine resident or investment owners of 15 homes in one of the neighborhoods subject to eminent domain. One of the petitioners lived in the house that has been in her family for over 100 years. She was born in the house in 1918. Her husband has lived there since their marriage in 1946, and their petitioner son lives next door with his family. Moreover, the record makes no claim that these are anything but well-maintained houses that do not pose any source of social harm, unlike the circumstances of several earlier cases cited in the majority opinion.

The opinion warns that despite the majority opinion's reliance on the city's comprehensive plan, there is nothing in the majority opinion that prohibits property transfers generated with less care, that are less comprehensive, that happen to result from a less elaborate process, where the only projected advantage is the incidence of higher taxes or the hope to transform an already prosperous city into an even more prosperous one.

Despite my misgivings about the Kelo case and its implications, this amendment today is very narrow and merely limits the availability of Federal funds from within this act for the year for which it is applicable for use in funding eminent domain activities. The key issue in this amendment is that these funds should not be used to provide Federal support for eminent domain activities that primarily benefit private entities. The amendment recognizes the importance of supporting eminent domain activities in support of transportation projects, utility projects, and projects to remedy blight. Funds may still be used from the Federal sources in this act for these projects.

Moreover, the amendment requires the GAO to conduct a study that analyzes the use of eminent domain throughout the Nation, as well as the results accomplished by these uses of eminent domain.

I know some of my colleagues are proposing significant substantive authorizing legislation which would have a much broader band. This objective is worthwhile. I hope to join them at a later stage. This is just a starting step. It is a starting point to make sure eminent domain for private purposes is not funded in the coming year from funds from the Transportation, Treasury, the Judiciary, Housing and Urban Development, and related agencies bill.

I hope my colleagues will join me in support of this amendment. It establishes a very important principle. I hope to have a very solid vote for this amendment when it comes to the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank the chairman for offering this amendment. The Kelo v. New London decision by the Supreme Court came as a great shock to many. The amendment being offered seeks to impose some meaningful limitations on the potential use of eminent domain with the funds provided in this act. I emphasize this provision is limited to the funds in this act and does not seek to overturn the Kelo decision. It merely ensures that funds appropriated for 2006 for the Department of Transportation and Housing are not to use eminent domain for projects that primarily benefit private interests.

I urge my colleagues to support this amendment. I thank the chairman of the committee for offering this critical amendment at this time.

I yield the floor.

Mr. BOND. Mr. President, I thank my friend, the Senator from Washington. There are other amendments that are going to be offered, and at the appropriate time I will ask this be set aside so further amendments can be offered.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2078

Mr. DORGAN. Mr. President, I intend to offer two amendments to this legislation. I take a moment now to offer the first of those amendments. While I do that, I thank my colleague from Missouri and my colleague from the State of Washington for their work on this piece of legislation. This is an appropriations subcommittee bill on which they have done an excellent job. I appreciate that.

I will offer an amendment at the completion of my comments. The amendment deals with the issue of contracting, particularly contracting in Iraq, and also now contracting in this country for reconstruction of the Gulf States that were hit so hard by Hurricane Katrina and then Rita. I will talk about the reason I am offering this and point out I have offered it previously, and I lost in the vote that was conducted in the Senate. However, I have previously indicated I do not intend to be discouraged by losing a vote. I will ask the Congress to reconsider by having another vote, and I will do it again following this if I am not successful.

Let me describe the circumstances that bring me to the conclusion we need a special committee of the type that Harry S. Truman led when he was a Senator. Incidentally, he was a Democrat Senator who had the Senate establish what was called the Truman Committee to investigate waste, fraud, and abuse in defense spending back in the middle of what became World War II, the middle of the Second World War. With a Democrat President, a Democrat Senator was doing investigative hearings about waste, fraud, and abuse with respect to spending in the area of defense. He uncovered billions and billions and billions of dollars of waste. Good for him. I am sure it was not pleasant for the White House because Senator Truman was a member of the party of the President at that point. Nonetheless, he did what he believed was important and right for this country. It was very important to have done.

These days we have something happening with respect to the country of Iraq. We have a war in Iraq. We also have reconstruction programs for the country of Iraq paid for by the American taxpayers. We have contracts that are sole-source, no-bid contracts given to some very large corporations. We have tales of horror about the waste of the taxpayers' money, and nobody seems to care very much.

We also now have similar tales with respect to contracting—again, no-bid, sole-source contracting—with respect to the reconstruction and the response to Hurricane Katrina and Rita.

Let me describe just a few of these, if I might. First, let me talk about contracting in Iraq. We have a substantial amount of contracting in Iraq, no-bid contracts, that are worth billions of dollars. I have held six or seven hearings on this subject. It ranges from the small, a fellow holding up a towel, a hand towel, because he worked for Halliburton Corporation, which was suppose to buy towels for our troops in Iraq. He holds up a hand towel and says: I was the purchasing agent and was supposed to buy towels for the troops. But the company wanted their logo imprinted on the towels, which nearly doubled the price.

So the American taxpayer paid twice the price, or nearly twice the price, for these towels because the company wanted the logo on the towel.

He said they were paying $7,500 a month lease on SUVs in Iraq; $85,000 brand new trucks were left by the side of the road because they had a flat tire and torched; $85,000 trucks discontinued to be used and left by the side of the road because they had a plugged fuel pump, and therefore torched. These purchasing agents were told it didn't matter, these are cost-plus contracts. It does not matter that money is wasted, they could spend what they wanted to spend. They were told the good old American taxpayer will pick up the tab.

We had a man named Rory in charge of food service, a supervisor at a food service area in Iraq. Rory described what his instructions were from Halliburton. His instructions were: If a government auditor comes by, you get out of there. You refuse to talk to a government auditor. If you talk to an auditor that comes by to try to evaluate what is going on, one of two things will happen to you. You will either be fired, or you will be moved to an area in Iraq that is under active hostile action. Those are your choices.

Rory decided to tell what was going on. He said they were feeding soldiers who did not exist. We have read the headlines, charging for 42,000 soldiers to be fed every day; 42,000 meals, three times a day. It turns out there are only 14,000 soldiers. A big error? Maybe. Rory says it was happening in his area, about 4,000 or 5,000 soldiers in his area. He said: By the way, we had expired food. The date stamp had long since expired, and we were told by the supervisors, it does not matter, just feed the food to the troops. Convoys come through in hostile action, with lead in the meat and lead in the food in the back of the truck, and they were told to separate out the lead from the food, and by the way, for the bullets, give them to the supervisors as souvenirs and feed the food to the troops.

That is on the record from a guy who worked there, came back to the country, and became a whistleblower. He says here is what is going on. We are being stolen blind.

Let me show a picture of another fellow who testified at a hearing I held. Incidentally, I am doing the hearings not because I enjoy holding hearings. We are holding hearings because there is no oversight in the Congress. My intention is not to embarrass anybody but to represent the taxpayer.

This represents hundred-dollar bills wrapped in Saran Wrap. This fellow testified at a hearing I held. He said: In our area, we wrapped up hundred-dollar bills like this in Saran Wrap and told contractors—this is contracting in Iraq—bring a bag because we pay in cash. If we owe you some money, bring a bag, we pay in cash. He said they actually played football in this office by passing back and forth these batches of hundred-dollar bills wrapped in Saran Wrap. He said it was like the Old West. Just bring a bag; if we owe you money, we fill it with cash.

When we hear these stories—and we pass emergency legislation for nearly $20 billion for reconstruction of Iraq; we spend $4 billion, $5 billion, or $6 billion a month now in Iraq and Afghanistan—we push a massive amount of money out there with some of it, a fair amount of it, going, particularly in the reconstruction, to no-bid contracts, to big companies, and then we hear stories such as, OK, here is the task: We will put air conditioning in this building. So the big company gets money for air conditioning, subcontracts it, the subcontractor contracts it, and when the work is all done you have ceiling fans—and we paid for air conditioners. Who cares? Who is watching over this massive amount of waste, fraud, and abuse? I will not go through it all, but it is unbelievable what is going on. Nobody seems to care.

What is happening with respect to reconstruction down in the gulf as a result of Hurricane Katrina and Rita? We hear people talking about $200 billion. This Congress has appropriated slightly more than $60 billion already. We have seen, once again, some of the same companies performing no-bid contracts in Iraq now with no-bid contracts in the gulf.

First, we start with waste, fraud, and abuse with FEMA, an organization that used to be something really special. I remember when my colleague, Fritz Hollings, sat in the chair behind me. Fritz Hollings, back in another era, said: We had two natural disasters down in our part of the country. The first disaster was a hurricane; the second disaster was FEMA.

But then FEMA changed. All of a sudden James Lee Witt came in from a background that was unusual. The guy had experience. He came from a background of disaster preparedness, disaster emergency services. And all of a sudden, FEMA became something very special.

I know that because my State had a community of 50,000 in the flood of 1997 in Grand Forks, ND, that required the evacuation of almost an entire city. It was a massive evacuation and flood response. Guess who was there at the lead. FEMA. Everybody there would say: What a remarkable organization. It worked. It knew what it was doing. It was sharp, on the ball, had plans, and it made things happen.

Now what has happened to FEMA? Let me describe it. I will not go into great length about FEMA because everybody knows some of the top positions of FEMA were filled with cronies who had no experience at all in disaster preparedness or emergency services and that then it was subsumed into the Homeland Security Department. I do not need to go into great length about that.

As shown in this picture, this is a truckdriver. We had a hearing the other day and he testified. This truckdriver, by the way, was contracted for by a company that was doing work for FEMA. He was asked to haul ice. You

can see all these trucks in the picture. There were hundreds of trucks where he was sitting. He was asked to haul ice to the victims of Hurricane Katrina.

He picked up a load of ice with his 18-wheeler in New York, and away he went. They said: We want you to go to Carthage, MO, so he drove his 18-wheel truck, with a refrigerated trailer, to Carthage, MO. He got there, and they said: Well, but now you need to go to Maxwell Air Force Base in Alabama. He said: Well, it would have been good to know that when I left New York. I would have saved about 700 miles. But that was the way it was, so he headed off with his truck to Maxwell Air Force Base, AL.

He got to Alabama with a load of ice, and was parked at the Air Force base with many others, hundreds of other trucks, we are told, that had food, blankets, clothing, ice—all the things the victims of Hurricanes Katrina and Rita were begging for on television. He was sitting there, watching the little television in his truck, hearing the victims of these hurricanes describing what their needs were—and the needs were in the back of these trucks.

He sat there 12 days—12 days—and he finally went up to them and said: What is going on? They said: We have changed our mind. We want you to drive your truck with ice to Idaho. He said: I didn't know there was a hurricane in Idaho, and I don't intend to haul this ice to Idaho. They said to him: You have a bad attitude. We are thinking of having the National Guard escort you off this base.

It cannot be funny because it is so unbelievably inept. But about 2 hours after they told him that, they said: OK, we have changed our mind; you won't go to Idaho. You haul this ice to Massachusetts. This is like that television program, ''Where in the World is Carmen San Diego?'' If I had a map, I would show you where these ice cubes went. To help the victims of the hurricane, directed apparently by FEMA and its contractor, they went from New York City, to Carthage, MO, to Maxwell Air Force Base, AL, to storage, now being paid for by the U.S. Government, in Massachusetts.

We paid $15,000 for this one truck to haul ice cubes between New York and Massachusetts—destined for victims of the hurricane. What unbelievable—unbelievable—ineptness by a Federal agency. This truckdriver could have run FEMA better than that.

When he testified, he said: It would have been easy. All they would have had to have is some sort of transportation system by which everybody calls in there and then you are directed. No such thing.

He finally said to them, as he sat 12 days on the base before they sent him to Massachusetts with his ice cubes: I'll tell you what I'll do; I will pay for the ice cubes in my truck. I will pay you $1,500. They said: What are you going to do with them? He said: I'm going to haul them to Biloxi, MS, and give them away to victims who want them. They said: Who is going to sign for them? He said: It shouldn't matter to you. Once I have paid for them, you're out of the picture. They said: We can't do that. You haul them up to Massachusetts. We are going to store them.

I told this story and somebody, the other day, said: Yeah. That's just one trucker. Oh, yeah, don't let the facts get in the way of good theories, right? This is one trucker, but he said there were hundreds of truckers in exactly the same situation.

This was chaotic bungling. And who gets paid for this? Well, I assume the contractor FEMA had who directed these truckers to haul ice cubes from New York to Massachusetts or, incidentally, a trucker who hauls ice cubes from Canada down to Maxwell Air Force Base and back to Canada. What unbelievable waste.

So now here is the second piece of all of this and why there needs to be investigations. This is a dormitory, by the way, as shown in this picture. It does not look much like a dormitory. It looks like a bunch of two-by-fours with blankets on top. This picture was taken last Saturday in Louisiana.

These people are not from Louisiana. These people were brought in to replace some people from Louisiana who had jobs—qualified electricians who had jobs—to begin doing some work under a contract. Those workers from Louisiana are displaced now by workers, most of whom, incidentally, are expected to be undocumented workers, who will come in and work for a fraction of the wage you would pay the people from Louisiana who need the jobs.

Why? Because Davis-Bacon is waived. What is Davis-Bacon? It is a foreign language to a lot of people, perhaps. The Davis-Bacon provision, in law for some long while, says when you are going to have the Federal Government come in and do contracting work, the Federal Government must pay the prevailing wage. The contractors who work for the Federal Government must pay the prevailing wage. They cannot try and ratchet up a contract for themselves by abusing their workers and deciding to pay them a tenth or a half of what they should be paid. You have to pay the prevailing wage.

Well, the minute that happened in this area, the people who had the jobs these people now have—the people, by the way, who were from Louisiana, skilled electricians, who needed the work in the shadow of Hurricanes Katrina and Rita—lost their jobs. The foreman who was on the jobsite with them was here and talked to me about it. They lost their jobs because they were replaced by these folks: largely undocumented workers willing to work for a fraction of the cost—not from Louisiana. The folks from Louisiana who had those jobs lost them with reconstruction. That is what is happening.

My point is this: There needs to be some investigation. I am not suggesting that it is an investigation to tarnish anybody. It is an investigation to evaluate what on Earth is wrong with the oversight for this waste and fraud and corruption that exists in these contracts.

In the newspaper this morning, in the Style section, there is a picture of a woman named Bunny Greenhouse, who was the highest ranking official in the Corps of Engineers in the U.S. Government working in the Pentagon. She lost her job. What a remarkable woman. She has three masters degrees.

As an aside, I did not know this, but the story says she comes from a dirt-poor background. Her parents were uneducated. Her sister became a professor. Her brother, incidentally, scored 27,000 points in the National Basketball Association, and was rated one of the 50 best basketball players to ever play the game—Elvin Hayes.

Bunny Greenhouse, this woman, rose to become the highest ranking civilian official in the Corps of Engineers. She just lost her job. Do you know why? All of her references, all of her evaluations were outstanding—outstanding. What a terrific person—until she started telling the ''old boys network'': You can't do what you are doing here. You can't give Halliburton big no-bid contracts and even have them sitting in on the meetings about the scope of the work. You cannot do that. It violates all of the rules and procedures. The minute she started interrupting the little playground that exists with these favorite no-bid contracts, all of a sudden she was persona non grata.

You can read the story in this morning's Washington Post. She has been here twice to talk to us on Capitol Hill. Not many seem to care about that. But it is a symptom of something much more than her; it is a symptom of a culture about corruption, about waste, and, yes, fraud. If you wonder whether that is justified, I will be happy to give you, and anyone in the Senate who wants, the written testimony of a good many witnesses who have testified on these very issues.

So my proposition is simple. My proposition is Congress should establish a type of Truman committee. I describe it as a Truman committee because we have done it before—a special committee that takes a hard look at all of this contracting that is going on and tries to shut down the waste, fraud, and abuse the taxpayers in this country should not have to be accepting and this Congress should not allow. This committee would not be necessary if we had aggressive oversight committees.

Let me say that the chairman from Missouri and the ranking member from the State of Washington—this is an appropriations committee. I just described the job they have done. They have done a great job. This amendment has nothing to do with them. They are good appropriators. I am proud of their work. This appropriations subcommittee, is awfully good, and I am

here to support the subcommittee work. So my amendment does not have anything to do with them.

But I would say this: Almost everyone who watches this Congress work understands there is virtually no oversight and no accountability after we do appropriate that money. The American taxpayers deserve better than that. We have had a previous vote, and we had more than a majority of the Members of the Senate say no, they do not want to have anything to do with a special committee to take a look at investigating this waste, fraud, and abuse. I hope others will change their mind. This is not about Democrats and Republicans; it is about protecting the American taxpayers. And it is about making sure we root out the waste, fraud, and abuse that exists in these sole-source contracts. What is happening is almost unbelievable to me. Yet this Senate seems nearly asleep on these issues.

Mr. President, I call up amendment No. 2078 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2078.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, October 18, 2005, under ''Text of Amendments.'')

Mr. DORGAN. Mr. President, let me make the point that this amendment differs from one we have considered previously in that the scope of the evaluation and investigation of expenditures and contracting would include not just with respect to Iraq but also the contracting and reconstruction in the gulf in relation to Hurricanes Katrina and Rita damages.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague for bringing this forward. As I mentioned, this is an appropriations bill. It is a very important subject he has raised, but I raise a point of order under rule XVI that this is legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, pursuant to rule V, I have offered proper notice to suspend the rules. My expectation would be we would have a vote on suspension of the rules. As the Senator knows, I referenced that in the Senate Journal last evening.

The PRESIDING OFFICER. The motion to suspend is debatable.

The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that this measure be set aside so we can work out a time for a vote on the measure.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, I, in fact, will agree to a time agreement at some point. I have no intention of extending debate. I do want to make some additional comments at some point when we set up a vote, but I understand there are others who wish to offer an amendment, so I will be happy to allow this to be set aside, after which I will consult with the Senator from Missouri and the Senator from Washington about a time for the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I thank my colleague. I believe there are some on this side who will want to respond. I hope we can get a tight timeframe because we are going to be very busy this week. We have to finish this measure.

AMENDMENT NO. 2113

Mr. President, now, since it appears we are going to be having some action today, I ask unanimous consent that we bring up the amendment filed this morning, amendment No. 2113. I believe it can be adopted by a voice vote, with Senators who wish to speak on it permitted to speak during time later on today.

The PRESIDING OFFICER. Without objection, the amendment is pending.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2113) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I thank my colleagues and I look forward to action on the bill.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to be added as a cosponsor on the amendment offered by the Senator from Missouri.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

AMENDMENT NO. 2115

Mr. ENZI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 2115.

Mr. ENZI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with, since copies have been given to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. ENZI. Mr. President, I rise in opposition to the amendment offered by Senator KENNEDY that would increase the Federal minimum wage. I have offered an amendment myself. Although both of the amendments would raise the minimum wage by the same amount, $1.10 over 18 months, only my amendment recognizes the enormous burden mandates such as this one have on American's small business and works to alleviate that. We probably ought to be in agreement on this since the numbers are the same. All I do is add some things that will offset those burdens that have been placed with the minimum wage.

When Senator KENNEDY offered his original amendment, he referred to its economic effect as ''a drop in the bucket in the national payroll.'' A drop in the bucket in the national payroll? Comments like this are precisely why small business owners across the Nation feel that Washington, DC, politicians do not understand their needs.

We must also bear in mind that these are the people who create jobs, who provide an increasing percentage of employment for all workers, including those with minimum skills. It is usually the small business that takes a person who has minimum skills and trains them to a higher level. Quite often, they train them to a higher level where they even start their own business or they go to work for somebody else, taking the skills from where they are to an even higher level.

A lot of the problem with employment in the United States is that we don't have the people in the right places for the employment. They could be making more at what they are doing if they were in a different place. But sometimes they are not willing to move. They need more training, too. We have provisions for more training.

I would like to mention a little facility we have in Casper, WY, that will train people to work on oil rigs, and placement is 100 percent. The minimum is $16, and depending on what part of it you do, how long you are there, and what other skills you pick up, it goes considerably higher than that.

The mines in Campbell County, WY, are looking for additional employees. There are some requirements. You have to have a clean drug record. You have to be able to pass a drug test because when you are working around heavy equipment, if you don't have all of your capacities, you can hurt people, including yourself. That should not happen. So they do have requirements about having to have drug tests. But if you can pass the drug test, they will train you for the heavy equipment you need to operate in the mine. We are talking $50,000, $60,000, $70,000 without overtime, and then you have the right on both of those to have overtime as well, probably to the extent of whatever you are willing to put in and the law allows. There are some constraints on it since you are handling heavy equipment, but those are also nontraditional jobs.

We had a marvelous hearing in the HELP Committee. We had a person

from New York City. The young lady was talking about the training she had received in nontraditional jobs and the way her wages had increased. Quite frankly, at the present time she makes more than a U.S. Senator. What she is doing is putting rock trim on skyscrapers in New York. But there are some tremendous things out there, if a person gets the opportunity and takes the opportunity to increase their skills. If you are a minimum-skill person, if you are just doing the job and getting by and not learning anything, you are going to get minimum-skill wages.

I mentioned just getting by, just putting in the time. There is a difference. I know when my dad was interviewing people for the shoe business, he sometimes said, after he had interviewed them: That person told me they had 5 years' experience. I asked them a few questions, and what they had is 1 month's experience 60 times because they never learned anything from the first day they were on the job. They didn't have basic skills. He believed in training people and making sure they had, in 5 years, actually 5 years' worth experience. I can guarantee you, after the very first short training time, they never had minimum wage. But it is tied to the skills.

So to suggest that this is a drop in the bucket in the national payroll is a little bit offensive and does not recognize the job that small business is doing at getting people into the workforce and actually training them. It is particularly offensive to employers to suggest that a 41-percent increase in their labor cost, which is what is being proposed at this time, amounts to a drop in the bucket. A 41-percent increase in labor costs forces a small businessperson to face choices such as whether to increase prices, which often is not a choice, or face a potential loss of customers from lack of service or whether to reduce spending on health insurance coverage or other benefits to employees or to terminate employees. These choices are far more significant than a drop in the bucket, particularly if you are the employee who got terminated. It is a 100-percent problem to you.

Apart from its failure to mitigate the cost of this mandate for small businesses, the Kennedy amendment also fails to address the root of the problem for our lowest paid workers. I have touched on that a little bit. Congress, by simply imposing an artificial wage increase, will not meaningfully address the real issues of our lowest paid workers. Regardless of the size of any wage increase Congress might impose, the reality is that yesterday's lowest paid worker, assuming he still has a job, will continue to be tomorrow's lowest paid worker as well. That is not advancement. Advancement on the job and earned wage growth cannot be legislated. We do a disservice to all concerned, most especially the chronic low wage worker, to suggest that a Federal wage mandate is the answer.

What we need to focus on is not an artificially imposed number but on the acquisition and improvement of job and job-related skills. In this context, we should recognize that only 68 percent of the students entering the ninth grade 4 years ago are expected to graduate this year. And for minority students, that hovers right around 50 percent. In addition, we continue to experience a dropout rate of 11 percent per year. These noncompletions and dropout rates and the poor earnings capacities that come with them can't be fixed by a Federal wage policy. We have to get the kids to stay in school, to get the education. We have to make sure the education is relevant and that when they graduate at whatever level, there is a job out there for them and that the job is transportable, that they can take their skills other places in the country, as those areas open up, with a higher wage for those skills, and that they have the knowledge to be able to learn, to continue to advance their skills so that when they move, they get more.

What we want are the best jobs kept in America for the people who live in America. That is an opportunity we have but not with an artificially mandated minimum wage. I would hope that nobody in the United States would work at the minimum wage. I know for a fact that most of the people who start at minimum wage, if they pay attention to their job, are not in minimum wage very long. If they pick up the skills, they get paid for those skills. That is so that they don't go somewhere else and work. But if they don't have the skills, they are lucky to get a job at all. I have people I have hired before who couldn't read. What kind of opportunities do they have if they can't read? We have them in literacy programs. We moved them into GED programs and trained them in something they could do and be proud of, and that is a higher wage.

We must keep this in mind. The phrase ''minimum wage worker'' is an arbitrary designation. A more accurate description and one that should always be at the center of the debate is that we are seeking to address those workers who have few, if any, skills they need to compete for better jobs—that is what we are doing in the United States, competing—and then command higher wages. The effect may be low wages, but the cause is low skills. In short, the problem is not the minimum wage, the problem is minimum skills.

If we are to approach this debate in a constructive and candid way, we need to acknowledge certain basic principles of economics. Wages do not cause sales. Sales are needed to provide revenue to pay wages. Revenue drives wages. Wages can cause productivity, but the productivity has to come first to be able to afford the wages. When we raise the minimum wage, we are raising the price somehow. The people who get the minimum wage have to buy stuff just like everybody else. If the price goes up because a phony minimum wage went in, then their buying ability did not increase at all. How pleased can you be if you get more money and you can't buy anything more? What we are trying to do is set up a system where people will make more true wages and, with the true wages, be able to purchase more than they could before. Some of that is basic need, but we are hoping they all get past the basic need level and can get into the wants and desires as well, that they can be part of the American dream.

Skills, however, operate differently than wages. Skills do create sales, and sales produce revenue. Skills do create productivity. Skills get compensated with higher wages or people find another job. The employee simply goes elsewhere for higher wages. Wage increases without increased sales or higher productivity have to be paid for with higher prices. Higher prices wipe out wage increases. Skills, not artificial wage increases, produce true net gains in income for the individual and for the business. When it increases for the business, it increases their likelihood of keeping their job and getting to advance. The minimum wage should be for all workers what it is for most—a starting point in an individual's lifelong working career, their lifelong learning career. Those who advance in any jobs are the ones who look at it and say: How can I do this better? If they come up with a way to do it better, they will get more compensation. Their business will make more money or they will go start their own business, which is also a dream of mine, to get people to do that. I hold an inventors conference every year. The purpose of that conference is to get people to invent about their surroundings and their jobs and to find some product that they can make in Wyoming and ship around the world. I have found that anybody who has figured out a way to make a living in Wyoming lives in Wyoming. We are a little short on jobs out there. That is why we only have 494,612—that is last week's number—living in Wyoming. We hope to get past that half-million mark, but it does require jobs. The way to get jobs is to have the skills to be able to improve what you do.

The minimum wage should be for workers what it is for most; that is, a starting point in an individual's lifelong working career, their lifelong learning time. Viewed as a starting point, it becomes clear that the focus needs to be less on where an individual begins his or her working career. Instead, more emphasis should be placed on how an individual can best progress. Real wage growth happens every day, and it is not a function of Government mandate. It is the direct result of an individual becoming more skilled and, therefore, more valuable to his or her employer. As a former small business owner, I know that these entry-level jobs are a gateway into the workforce for people without skills or experience.

These minimum-skill jobs can open the door to better jobs and better lives for low-skilled workers because they get more skills if we give them the tools they need to succeed.

We have a great example in Cheyenne, WY, of minimum-skilled workers who were given the tools and the opportunity to reach the American dream. Mr. Jack Price, who is the owner of 8 McDonald's in Wyoming—and we use McDonald's as kind of a derogatory thing with people as being a minimum wage establishment; I assure you that people who start there, who learn something, are not at the minimum wage very long—has had 3 employees who started working at McDonald's at the minimum wage, and those 3 employees now own a total of 20 restaurants. They learned something. They started at minimum wage. They didn't like it, I am sure. They learned. They got experience. They delved into it and found out all they could about the business and wound up owning the business. That is what we want for people. It requires some individual initiative, and it does require starting at the bottom. With almost every job, you have to start at the bottom. If you learn it, you can progress in it. Three employees at McDonald's who started at the minimum wage now own 20 restaurants.

It is a great success story. That is where I would like people to go. This type of wage progression and success should be the norm for workers across the country. However, there are some minimum-skilled workers for whom stagnation at the lower tier wage is a longer term proposition.

The answer for these workers, however, is not to simply raise the lowest wage rung. Rather, these individuals must acquire the training and skills that result in meaningful and lasting wage growth. We must equip our workers with the skills they need to compete in technology-driven global economies.

It is estimated that 60 percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess. Let me say that again. It is estimated that 60 percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess.

Here is another interesting point. It is also estimated that the graduating student will likely change careers some 14 times in their life. There are a lot of people in America whose parents went to work for one company, worked there 30 years and retired. I am talking about a different world. It is estimated that the graduating students will likely change careers some 14 times in their life.

Here is the part that is even more stunning, and I am not talking about changing employers. I am talking about changing careers. Of those 14 careers, 10 of them have not even been invented yet. We don't even know what this change in technology is going to bring about, but we do know that people better be able to change to get those jobs, and they are going to have to change pretty dramatically. It is going to be based on the education they get and then the skills they acquire in the workforce after they get out of school. School is never out; learning is never over.

To support these needs, we do need a system in place that can support a lifetime of education, a lifetime of training and retraining for our workers. The end result will be the attainment of skills that provide meaningful wage growth and competition—successful competition—in the international marketplace.

As legislators, our efforts are better focused on ensuring that the tools and opportunities for training and enhancing skills over a worker's lifetime are available and fully utilized than they are on imposing an artificial wage increase that fails to address the real issues and, in the process, does more harm than good.

Skills and experience, not an artificial Federal wage hike, will lead to lasting wage security for American workers. We have to compete. It is an international competition. Skills count.

As chairman of the Health, Education, Labor, and Pensions Committee, one of my priorities is reauthorizing and improving the Nation's job training system that was created by the Workforce Investment Act. This law will help provide American workers with the skills they need to compete in the global economy. That will lead to real, not artificial, wage increases.

Last year, I was denied a conference committee being appointed to resolve the differences with the House on this important bill by the very people proposing this increase. This year, we reported it out of the HELP Committee by a unanimous voice vote again. It was unanimous coming out of committee 2 years ago, it was unanimous passing the floor of this body, it was unanimous passing out of committee again this year, and it is waiting to come to the floor. I am hoping we can get consent to get it over to a conference committee with the House.

This bill will start an estimated 900,000 people a year on a better career path. You can't tell me that some of the same people who are denied the opportunity in the last Congress now think a magic redetermination of the lowest wage for the lowest skills will change people's lives.

Outside the glare of election year politics, I hope we can quickly pass a job training bill that will truly improve the wages and lives of workers in this country.

Let's be clear about what a minimum wage hike will and will not do. First, we must realize that large increases in the minimum wage will hurt low-income, low-skilled individuals. Mandated hikes in the minimum wage do not cure poverty, and they clearly do not create jobs. The Congressional Budget Office has said:

> Most economists would agree that an increase in the minimum wage rate would cause firms to employ fewer low-wage workers or employ them for fewer hours.

That is a CBO estimate, October 18, 1999.

What every student who has ever taken an economics course knows is if you increase the cost of something—in this case a minimum wage job—you decrease the demand for those jobs. Misleading political rhetoric cannot change the basic principle of supply and demand. The majority of economists continue to affirm the job-killing nature of mandated wage increases. A recent poll concluded that 77 percent—that is nearly 17,000 economists; that is scary, isn't it?—but 77 percent, nearly 17,000 economists believe that a minimum wage hike causes job loss.

We simply cannot assume that a business that employs 50 minimum wage workers before this wage increase is enacted will still employ 50 minimum wage workers afterwards. Whether a business is in Washington or Wyoming, employers cannot absorb an increase in their costs without a corresponding decrease in the number of jobs or benefits they can provide workers. So we know there are losers when we raise the minimum wage, but who are the individuals who will benefit?

Minimum wage earners who support a family solely based on wage are actually few and far between. Fully 85 percent—85 percent—of the minimum wage earners live with their parents, have a working spouse or are living alone without children—85 percent; 41 percent live with a parent or relative; 23 percent are single or are the sole breadwinner in a house with no children; and 21 percent live with another wage earner.

Our research shows that poor targeting and other unintended consequences of the minimum wage make it terribly ineffective at reducing poverty in America, the intended purpose of the policy. In fact, two Stanford University economists concluded that a minimum wage increase is paid for by higher prices that hurt poor families the most.

A 2001 study conducted by Stanford University economists found that only 1 in 4 of the poorest 20 percent of families would benefit from an increase in the minimum wage. The way to improve—truly improve—the wages and salaries of these American workers is through education and training, not an artificial wage increase.

With these realities in mind, I am offering an amendment that recognizes the true cost of a minimum wage increase on American workers and businesses, particularly small businesses. My amendment includes a minimum wage increase of $1.10, which is just like Senator KENNEDY's amendment right now. So we are really not talking about the minimum wage amount.

My amendment addresses other needs for reform and the needs of small businesses that create most of the jobs in this country. That is where the two amendments differ. I have added some things beyond the $1.10 minimum wage increase, and that is to smooth out the bump a little bit for these small businesses that are creating these jobs, that are providing the training, that are helping people get better skills so they can get better jobs.

So my amendment addresses other needs for reform and the needs of small businesses that create most of the jobs in this country. Therefore, my amendment is protective of economic growth and job creation. I think if we had worked this out in committee, probably the other side would have accepted what I am about to do in additional pieces to this bill, and a lot of this discussion would not have been necessary.

Let me briefly review the provisions contained in my amendment. In doing so, we must bear in mind that small businesses continue to be the engine of our economy and the greatest single source of job creation. Any wage increase that is imposed on small businesses poses difficulties for that business, the owner, and his or her employees. I will tell you, in small business, the employees recognize how tenuous their job is. There are not a whole lot of layers that can be laid off before they get to them because there is the owner and a couple of employees. And because there are just a few in the business, they know how the business operates. They know what the dollars coming in are and what the ability is to change that unless they can increase productivity or sales.

Any wage increase that is imposed on small businesses poses difficulties for that employer and his or her employees. My amendment recognizes that reality and provides a necessary measure of relief for those employers. My amendment would make the following changes that are critical, particularly for small business.

First, we would update the small business exemption. Having owned a small business in Wyoming, I can speak from personal experience about how difficult any minimum wage increase is for small business and job growth, particularly for the entry-level people during the first couple of months they are on the job.

Small businesses generate 70 percent of new jobs. Let me say that again. Small businesses generate 70 percent of new jobs. Since a negative impact of a minimum wage increase will affect small business most directly, we have proposed addressing the small business threshold which is set under current law at half a million dollars. If the original small business threshold, which was enacted in the 1960s, were to be adjusted for inflation, it would be over $1.5 million.

The small business threshold was last updated 15 years ago. In those ensuing years, the national minimum wage has been hiked, the economy has undergone dramatic shifts, and the way work is done in this country has changed forever. The pending amendment raises that threshold to $1 million to reflect those changes. It ought to be at $1.5 million. That is what inflation shows. But we are being reasonable. I like to be reasonable on any of the proposals I put forward. So instead of going from a half a million dollars to $1.5 million, this bill only raises it to $1 million to reflect part of those changes.

My amendment also incorporates bipartisan technical corrections that were originally proposed in 1990 by then-Small Business Committee Chairman Dale Bumpers, who used to serve on that side of the aisle when I was first here. It was cosponsored over the years by Senators REID of Nevada, HARKIN, PRYOR, MIKULSKI, BAUCUS, KOHL, and many others.

As those Senators can attest, the Department of Labor disregarded the will of Congress and interpreted the existing small business threshold to have little or no meaning. The Labor Department would make a Federal case out of the most trivial paperwork infraction by the smallest businesses because of what it interpreted as a loophole in the law. Some would say that the 1989 bill to hike the minimum wage and small business threshold was unartfully drafted and permitted this result. Others say the Department is misreading the clear language of the statute.

Regardless, the fact is that a threshold enacted by Congress is not providing the balance and fairness that was intended. This amendment corrects that problem by stating clearly that the wage and overtime provisions of the Fair Labor Standards Act apply to employees working for enterprises engaged in commerce or engaged in the production of goods for commerce. My amendment also applies those wage-and-hour worker safeguards to home work solutions.

The second change: ensuring procedural fairness for small business. This next provision is commonsense, good Government legislation. Surely, we can all agree that small business owners, the individuals who do the most to drive our economy forward, deserve a break the first time they make an honest paperwork mistake when no one is hurt and the mistake is corrected.

Small business owners have told me over and over how hard they try to comply with all the rules and regulations imposed on them, mostly by the Federal Government. As a former owner of a small business myself, I know what they mean. Yet for all that work, a Government inspector can fine a small business owner for paperwork violations alone, even if the business has a completely spotless record and the employer immediately corrects the unintentional mistake. Who is hurt? Nobody is hurt, but it is an extra burden on small business.

I have to tell you a little bit about small business. They don't have a lot of employees. They don't have any specialists out there. Big business can hire people to take a look at the paperwork, and small business has to stay as lean and mean as they can to make a profit. Look at the difference between profits in your small businesses and your big businesses, and you will see they are staying pretty lean and mean.

I remember the first hearing I held in Wyoming after I became a Senator was on small business issues.

One has to remember, Wyoming has kind of a small population. So I was thrilled when people from about 100 businesses showed up for this hearing.

Afterwards, one of the reporters came up to me and said: Were you not kind of disappointed in the turnout?

I said, no, I was not disappointed in the turnout. These are small businesses we are talking about, and if they had an extra person to spend half a day at a hearing, they would fire them, as they have, to stay mean and lean, to stay in business.

So there is a whole world of difference in trying to meet some of the Federal paperwork mandates that are fineable. They are hard enough to learn about, so the first mistake that does not affect anybody and is corrected immediately ought not to be a fine. Even the best intentioned employer can get caught in the myriad of burdensome paperwork requirements imposed on them by the Federal Government.

The owners of small businesses are not asking to be excused from the obligations or regulations, but they do believe they deserve a break if they have previously complied perfectly with the law.

As Jack Gold, the owner of a small family business in New Jersey, told Congress a few years ago at one of our hearings:

> No matter how hard you try to make your business safe for your employees, customers, neighbors and family members, in the end, if a government inspector wants to get you, they can get you. The government cannot tell me that they care more for my family's safety and my company's reputation than I do.

When one has a small business, the people who work there are part of a family. Small business men and women who are first-time violators of paperwork regulations deserve our protection.

The third change: Providing regulatory relief for small businesses. As any increase in the minimum wage places burdens on small employers, it is only fair that we simultaneously address the ongoing problem of agencies not fully complying with congressional directives contained within the Small Business Regulatory Enforcement Fairness Act.

I will say that again: The Small Business Regulatory Enforcement Fairness Act. The titles are long to read, let alone the bills that go with them.

Under the law, agencies are required to publish small entity compliance guides for those rules that require a

regulatory flexibility analysis. Unfortunately, agencies have either ignored this requirement, or when they tried to comply have not done so fully or carefully. Now, the previous issue I talked about was small businesses having a little imperfection in a regulation for the first time and correcting it immediately. Now we are talking about the Federal Government having problems and ignoring requirements.

We do not have a penalty for that, but it is something to which the Federal agencies have to pay attention, and my amendment does this by including specific provisions that the Government Accounting Office has suggested to improve the clarity of the requirements. People ought to be able to read the rules and know what they say without having to hire a specialist or a lawyer.

The fourth change: Removing the barriers to a flexible time arrangement. My amendment includes legislation that could have a monumental impact on the lives of thousands of working men, women, and families in America. This legislation could give employees greater flexibility in meeting and balancing the demands of work and family. The demand for family time is evident.

Let me give some of the latest statistics. Seventy percent of employees do not think there is a healthy balance between their work and their personal life. Seventy percent of the employees say that family is their most important priority.

The family time provision in my amendment addresses these concerns head on. It gives employees the option of flexing their schedules over a 2-week period. In other words, employees would have 10 flexible hours they could work in 1 week in order to take 10 hours off in the next week.

We are not shifting pay periods or anything. We are making arrangements that if the employer and the employee agree, there can be a shift in their work schedule. Here is a really important part. Flexible work arrangements have been available in the Federal Government for over two decades. We are not asking for anything that the Federal Government does not already allow for Federal employees.

I have to say, one of the problems and one of the reasons this came to my attention is that Cheyenne, WY—that is our biggest city in Wyoming—has a little over 53,000 people. That is the capital. We have a lot of Government workers there because it is the capital. The Government workers are allowed to take flextime.

The private businesses that are there are not allowed to give flextime. So we have one spouse who works for the Government who can shift their schedule around to take an afternoon off to go watch their child play soccer in another town—and we have to drive some long distances in Wyoming to get to the other towns to watch the soccer games—but the other parent cannot because the other parent is working for a private company.

Why would we discriminate that way? Why would we allow Government workers to do some things that the private ones cannot do under the same law?

Flexible work arrangements have been available in the Federal Government for over two decades. This program has been so successful that in 1994 President Clinton issued an Executive order extending it to parts of the Federal Government that had not yet had the benefits of the program. President Clinton then stated:

> The broad use of flexible arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

Now, why would we not want that to be in the private sector, too? I mean, the private sector ought to have broad use of flexible arrangements to enable their employees to better balance their work and family responsibilities, which would increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

That sounds reasonable to me, that what we said the Government could benefit from that the private sector could benefit from, too. Why are we not allowing the private sector to do that?

I could not agree more with President Clinton, but we now need to go further and extend this privilege to private-sector workers. We know this legislation is not a total solution. We know there are many other provisions under the 65-year-old Fair Labor Standards Act that need our attention, but the flexible time provision is an important part of the solution. It gives employees a choice, the same choice as Federal workers.

I want to give a little bit of a summary on that flextime proposal because this is a key part of it. I have heard some flak before and, again, I think if we were debating this in the committee situation and working it out when we were not in front of the TV cameras that we would probably come up with this as a reasonable solution. It would be included in a bill, and we would probably pass it through by unanimous consent. But it gets mixed in with the minimum wage debate, and needs to be, so I want to make sure people understand this.

The flextime proposal would provide employees with the option of choosing time paid off for working overtime hours through a voluntary agreement with their employer. It will do this by allowing them the option of flexing their schedule over a 2-week period. In other words, employees would have up to 10 flexible hours they could work in 1 week in order to take paid time off during the following week.

I do not want anybody confusing this with a comp time provision that was put in before. This does not include the comp time provision. So any accusations that this is taking overtime away from anybody, I would contend, even under the comp time solution is not valid. Under a flextime proposal, it is not valid. Again, it is the same thing that we decided that Federal employees could have, and if we would put any extra strain on a Federal employee I am sure that would be illegal under wage and labor laws. So what we are proposing is the same thing as Federal workers.

Now, as I mentioned, this provision will allow them the option of flexing their schedules over a 2-week period, give them up to 10 flexible hours they could work in 1 week in order to take paid time off during the following week. This program would be strictly voluntary. No employer and no employee can be forced to enter into a flextime agreement. However, this legislation prohibits intimidation, threats, and coercion by the employers and would provide penalties for violations of the prohibition. The flextime legislation will not take away anyone's right to overtime pay.

The authority to allow employees flextime also sunsets 5 years after enactment of the bill. I am that confident that it will be proven to be a necessity for the employees, so much so that in all 50 States they will be demanding that their Senator keep flextime for them. The only reason it is not being demanded in all 50 States at the present time is because there are a bunch of employees who have not heard about it. Employees in Government areas such as Cheyenne, WY, have heard about it because, as I mentioned, one spouse has the right because they work for the Government. The other spouse does not have the right because they work for private business.

I have to say, both of those spouses are really upset that we have not changed the law. We need to do that.

Sometimes there is some criticism of this so I have to repeat again the flextime proposal does not affect the sanctity of the 40-hour week. The 40-hour week remains the law. Under the flextime proposal an employee would earn overtime in the very same way he or she currently does, by working more than 40 hours in the same 7-day period. This proposal does not impact any worker who prefers to receive monetary overtime compensation. It will not require employees to take compensatory time—I should say flextime. I do not even want that word ''compensatory'' in there because I do not want any confusion, as has been stated previously. Previously, we have offered flextime and comp time. This is a flextime proposal.

It will not require employees to take flextime, nor will it require employers to offer it. The bill contains numerous safeguards to protect the employee and to ensure the choice and selection of flextime. It is truly voluntary on the part of the employee.

The proposal does not prevent an employee from changing his or her mind

after he or she chooses time off in lieu of monetary compensation. An employee can choose at any time to cash out any and all time off. The employer must make the payoff.

The fifth change I am making: extending the restaurant employee tip credit. A major employer of entry-level workers is the food service industry. The industry relies on what is known as the tip credit, which allows an employer to apply a portion of the employee's tip income against the employer's obligation to pay the minimum wage.

Currently, the Federal law requires a cash wage of at least $2.13 an hour for tipped employees, and it allows an employer to take a tip credit of up to $3.02 of the current minimum wage. To protect tipped employees, current law provides that a tip credit cannot reduce an employee's wages below the required minimum wage. Employees report tips to the employers, ensuring that an adequate amount of tips are earned.

The facts are that seven States—Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington—do not allow a tip credit, however, requiring raises for an hourly employee when States increase their minimum wage. The lack of a tip credit requires these employers to give raises to their most highly compensated employees, the tipped staff, under State minimum wage laws. Non-tipped employees in these States, in these businesses, are negatively impacted by the mandated flow of scarce labor dollars to the tipped positions. In addition, employers in these States are put at a competitive disadvantage with their colleagues in the rest of the country who can allocate employee compensation in a more equitable manner.

My amendment expands the tip credit to non-tip credit States, consistent with the initial establishment of the credit under the Fair Labor Standards Act.

I can probably give a little better and more detailed explanation. What is the tip credit? The tip credit allows an employer to apply a portion of an employee's tip income against the employer's obligation to pay the minimum wage. Federal law requires a cash wage of at least $2.13 an hour, and it allows an employer to take a tip credit of up to $3.02 of the current minimum wage.

Seven States do not allow a tip credit, instead requiring the tipped employees receive the same minimum wage as other employees. Non-tipped employees are negatively impacted by the flow of scarce labor dollars. This amendment expands the tip credit to non-tip credit States, consistent with the initial establishment of the credit under the Fair Labor Standards Act. Therefore, States which do not currently recognize the tip credit will be allowed to take a credit for tips of up to $3.02 of the minimum wage, which will be $6.25. For other current law, this calculation will be based on employees' own reporting of tips to their employers.

There is a false accusation out there, and it happened in previous debates. The Democrats misconstrued the effect of this change and alleged it would nullify all State wage-and-hour statutes in States that do not have a tip credit. This was never the intent of the provision, and additional language has been added to clarify that only affects the minimum wage rate provisions. Furthermore, the provision will only affect States that currently lack a tip credit. So we have added language to clarify it so it is only the minimum wage rate provisions. That is a very important part of that.

The sixth provision is a small business tax relief. I apologize for having to explain all of these on the floor. Again, this would be much better as committee work, but that has not been the opportunity.

If we are to impose greater burdens on small businesses, we should give them tax relief at the same time. My amendment would extend small business expensing, simplify the cash accounting methods, and provide depreciation relief for restaurants. All these tax provisions are fully offset; they are paid for. But they, again, smooth the bumps on those businesses that will be most impacted by an increase in the minimum wage, which gives them a way to be able to pay the increase in the minimum wage. Remember, that has to be paid for, too. Otherwise it drives them out of business, which means fewer jobs or it requires them to reduce other benefits, and often there are not other benefits.

In total, the additional provisions of my amendment are intended to mitigate the small business impact of a $1.10 increase in the minimum wage. I share the view of my colleagues, if we are going to impose such a mandate on the Federal level, we must do our best to soften its blow. This may be the best we can do today, but I entreat all of my colleagues to look at the true root of the problem for minimum wage workers, and that is minimum skills. We all share the same goals, to help American workers find and keep well-paying jobs. Minimum skills, not minimum wages, are the problem. Education and training will solve that problem and lead to the kind of increased wages and better jobs we all want to create for our Nation's workers.

Let's work together to get the Workforce Investment Act passed and conferenced—conferenced this time—so the President can sign it and get higher skills training accelerated.

Let me run through quickly what those six proposals are: raise the minimum wage by $1.10 over 18 months—we agree on that; permit family flextime for workers so that workers in private business have the same opportunity as workers in the public sector; increase the small business exemption from the Fair Labor Standards Act so that the small business level changes from $500,000 to $1 million; the small business one-time paperwork errors relief, when it is for the first time and corrected immediately; the small business regulatory relief actually being operated to protect small businesses; the minimum wage tip credit for restaurant workers; and then some other small business tax relief mainly aimed at those businesses that will be most affected by what we are doing.

I urge my colleagues to oppose the amendment offered by Senator KENNEDY and urge all Senators to support my amendment so we get the whole process taken care of. Again, I thank my colleagues for their patience. I needed to explain this in some detail since it has not been handled in committee.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Rhode Island.

AMENDMENT NO. 2077

Mr. REED. Madam President, I ask unanimous consent the pending amendment be set aside and further ask unanimous consent to call up amendment No. 2077, pending at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Ms. COLLINS, Mr. KERRY, Mr. KENNEDY, Ms. SNOWE, Ms. CANTWELL, Mrs. CLINTON, Mr. COLEMAN, Mr. HARKIN, Mr. DORGAN, Mr. SCHUMER, Ms. STABENOW, Mr. SMITH, Mr. LAUTENBERG, Mr. BAUCUS, Mr. BINGAMAN, Mr. KOHL, Mr. DURBIN, Mr. JEFFORDS, Mr. SALAZAR, Mrs. LINCOLN, Ms. MIKULSKI, Mr. LEAHY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. JOHNSON, Mr. REID, Mr. CORZINE, Mr. LEVIN, and Mr. DODD proposes an amendment numbered 2077.

Mr. REED. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for appropriations for the Low-Income Home Energy Assistance Program)

At the end of title VI, insert the following:

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), $3,100,000,000, for the unanticipated home energy assistance needs of 1 or more States, as authorized by section 2604(e) of the Act (42 U.S.C. 8623(e)), which amount shall be made available for obligation in fiscal year 2006 and which amount is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Mr. REED. I also ask unanimous consent Senator DODD be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. I further ask unanimous consent that Senator NELSON of Florida be added as an original cosponsor of amendment No. 2113.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, the topic of this amendment is increasing the funds available for the Low-Income Home Energy Assistance Program, LIHEAP. We are about to see a second tidal surge from Katrina and Rita; it is not rising waters, it is rising energy prices, and those rising prices are going to break with ferocity on people all over this country, particularly those individuals who live in States that are going to see a cold winter, which is beginning shortly. Low-income Americans are going to be faced with extraordinary challenges in meeting their energy bills this winter.

We have already seen huge increases in prices of heating oil, natural gas, and propane. We understand, without some further assistance, we will be in a very precarious position, and these families will be in a distressed position. I particularly thank Senator COLLINS, Senator SNOWE, Senator COLEMAN, and Senator SMITH for their bipartisan leadership on this amendment—particularly Senator COLLINS—for joining me in this effort. She has been a stalwart over several Congresses with respect to supporting the Low-Income Home Energy Assistance Program.

We are reaching across the aisle and across the country to provide more assistance to the LIHEAP program. We offer this amendment with 30 cosponsors. It is bipartisan, stretching across the length and breadth of this country. It seeks to add $3.1 billion to the HUD appropriations bill in emergency energy assistance.

Energy costs for the average family using heating oil are estimated to hit $1,577 this winter, an increase of $378 over last winter's heating season. For families using natural gas, prices could hit $1,099 this winter heating season, an increase of $354. Families using propane can see heating costs on average this heating season to be approximately $1,400. That is another increase of $300. For families living in poverty, energy bills now are approximately 20 percent of their income compared to 5 percent for other households. Unless we take action now, we are going to see families in this country, low-income working families, families struggling with the issue of poverty, seniors who are living on fixed incomes being devastated.

Mr. REID. Will the Senator yield?

Mr. REED. I yield to the Democratic leader.

Mr. REID. I would state Senator BAUCUS has a unanimous consent request and would like to make a few remarks prior to that. Will the Senator yield to Senator BAUCUS?

Mr. REED. I am prepared to yield. My colleague from Maine is here to speak.

Mr. REID. I ask you to yield to your colleague from Montana first.

Mr. REED. If I could do so and then, with the order being that at the conclusion of Senator BAUCUS, Senator COLLINS be recognized to speak.

Mr. REID. We, of course, have no objection if you get the floor following Senator BAUCUS.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Let me make sure I understand this.

Mr. REID. I asked the Senator from Rhode Island to yield to the Senator from Montana. He has a brief statement and unanimous consent request he is going to make. Then I have no problem.

Mr. REED. Reclaiming the floor, I ask how long the Senator from Montana might speak?

Mr. BAUCUS. I expect maybe 4 or 5 or 6 minutes.

Ms. COLLINS. Madam President, the Senator from Rhode Island and I have been waiting for some time to give our comments. I expect that my comments are only going to be 5 minutes.

Mr. REID. We will be happy to wait until the Senator from Rhode Island and the Senator from Maine finish their statements.

Mr. REED. Madam President, I think probably the most efficient way to do this is let me yield the floor to the Senator from Maine. When she concludes, I ask the Senator from Montana be recognized. At the conclusion of the comments of the Senator from Montana, if I can be recognized again, I will finish my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Ms. COLLINS. Madam President, first, let me thank my colleague and friend from Rhode Island for accommodating my schedule and for his usual graciousness. It has been a great pleasure to work with him on an initiative that is so important to low-income families in our country and that is increasing the funding for the Low-Income Home Energy Assistance Program. We are proposing to increase the funding to the amount authorized by the energy legislation that was signed into law a couple of months ago, so we are proposing to bring it to the fully authorized level of $5.1 billion.

Madam President, I am sure it is very similar in your State. When I go home to Maine, as I do every weekend, the No. 1 issue that people talk to me about is the high cost of energy. They have expressed over and over their fear that they simply will not be able to afford the cost of heating oil for their homes this winter. The cost increases have been enormous. They are, in part, attributable to the two hurricanes that we have endured, and that is why I view this as part of the emergency response to Hurricane Katrina and Rita.

Right now in Maine, we have already had some nights that have plunged below freezing. In Maine, 78 percent of all households use home heating oil to heat their homes. Currently, the cost of home heating oil is more than $2.50 per gallon. I actually paid $2.72 per gallon recently. That is a considerable increase, 60 cents or more a gallon, over last year's already high prices.

These high prices greatly increase the need for assistance. More low-income families are going to be in dire straits. Moreover, as it increases, it has an impact on the amount of money that can be given out, so we have a pot of money that is going to have to be spread over a larger population at a time when prices are soaring.

Last year, there was an average benefit in Maine of $480. This year it is expected that the benefit would have to be cut to $440. That would purchase only 173 gallons of oil, far below last year's equivalent benefit of 251 gallons, and not nearly enough, of course, to go through a Maine winter. To purchase the same amount of oil this year as last, Maine would need an additional $10.8 million in LIHEAP funds.

This really is a choice, for many low-income families in our country, of buying the home heating oil or natural gas that they need to keep warm or putting adequate food on the table or buying much-needed prescription drugs. Surely, in a country as prosperous as ours, no low-income family should be forced to make those kinds of choices.

I urge support for the amendment offered by the Senator from Rhode Island and myself, and again I thank the Senator for his courtesy in yielding to me.

The PRESIDING OFFICER. The Senator from Montana is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1716

Mr. BAUCUS. Madam President, it has been more than 7 weeks since Hurricane Katrina hit the gulf coast—7 weeks. Nearly 1.5 million Americans have been displaced. Tens of thousands of these survivors have no health care coverage and no money to pay for care. It is high time for passage of the Grassley-Baucus Emergency Health Care Relief Act, S. 1716.

On Monday, the Los Angeles Times ran a story on a 52-year-old schoolbus driver from New Orleans, Emanuel Wilson. Mr. Wilson survived Katrina, but his life is still at risk. Why? Because he has intestinal cancer and he has no health insurance.

Mr. Wilson was getting monthly chemotherapy injections before the storm, but now he cannot get any health care.

He lost his job and his health coverage because of Katrina, and he is ineligible to receive Medicaid.

According to the New Orleans Times-Picayune, more than half of all hurricane evacuees still in Louisiana who sought Medicaid coverage since Katrina have been turned away. More than half were turned away. These are poor people. They aren't people with a lot of money. They are poor people. They can't get coverage because they do not meet the rigid eligibility guidelines under Federal Medicaid law.

We need to relax those guidelines on a temporary basis, on an emergency basis, to help those survivors desperately in need.

This morning, my staff met with Secretary Cerise, secretary of Louisiana's Department of Health and Hospitals.

And Dr. Cerise reported that Louisiana's Medicaid Program has enrolled 60,000 new individuals because of Katrina, which would cost the State about $83 million if they were to pay for the care.

Louisiana has just lost about one-seventh of its total expected State revenue this year, and they cannot bear these additional costs. They are likely to need to make dramatic cuts to the Medicaid Program if they don't get help soon.

Dr. Cerise reports that Louisiana will have to cut all optional services to beneficiaries if they do not get help.

What does that mean? That means ending their hospice programs, ending their pharmacy benefits, ending their institutional care for the mentally retarded, ending their dialysis and other benefits, cutting off care for their medically needy, breast and cervical cancer patients, as well as thousands of low-income children.

We have spent far too long talking about this bill. Far too many times have we been asking unanimous consent to get this bill passed—far too long. These are temporary provisions.

America can do better. America can help its people in need in times of emergency.

Where is America? Where is the Senate?

My colleagues, Senator GRASSLEY, Senator LANDRIEU, Senator LINCOLN, and Senator REID have all spoken passionately supporting moving this bill forward and moving it forward immediately.

I hope we can get this bill passed and enacted into law without delay. We owe at least this much to our fellow Americans hit by Katrina and its aftermath.

It ties in very much with the latest dialog on the floor with the Senator from Rhode Island about the need for LIHEAP money. Energy costs are going up around the country. They are going up so quickly, so high, and it is the kind of problem facing the people down on the gulf coast.

I urgently ask our colleagues to support this bill.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 214, S. 1716, a bill to provide emergency health care relief for survivors of Hurricane Katrina; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. SUNUNU. Madam President, if I might reserve the right to object, we had this conversation on the floor before. The bill has been brought to the floor, and attempts have been made to pass it by unanimous consent.

This bill includes provisions that change the reimbursement rates under Medicaid for 29 States, regardless of how many evacuees they might have in that State, regardless of whether they were affected by Hurricane Katrina or Hurricane Rita. It is completely inappropriate to try to make adjustments in Medicaid under the umbrella or the cover of hurricane relief.

There are legitimate questions about whether and how we can provide assistance to those under Medicaid affected by Hurricane Katrina or Hurricane Rita.

Eight States have already been granted waivers to modify eligibility to help provide that coverage. But in an effort to deal with some of the concerns I have—and other Senators have concerns about this bill—this $9 billion bill to support a statute that gives the Secretary of Health and Human Services the power to change reimbursement rates to compensate States for additional costs incurred under Medicaid as a result of the hurricane, we would put into law the uncompensated care pool that is part of this legislation to help deal with some of the costs outside of Medicaid. We have even proposed providing some support and assistance to community health centers, something that is not even in this legislation—community health centers being so critical to providing assistance not just to Medicaid beneficiaries but to those who are underinsured or those who are without any health insurance for whatever reason. I think these are very reasonable proposals.

I think this is a good-faith effort to address some of the concerns that have been presented, but even in the absence of legislation through the State waiver process, through the efforts of Secretary Leavitt of Health and Human Services, I think every good-faith effort is being made to provide assistance, to provide coverage to those in need.

Given that fact, I will object at this time to the unanimous-consent request.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, with all due respect, we have heard these lamentations before. We have heard it all, with due respect, before.

Let me just clear the record a little bit. The Senator mentioned waivers. The Secretary has admitted that he does not have authority under the waiver system to do what needs to be done. He does not have authority to make these hospitals—not whole but to get some uncompensated care for these hospitals. He does not have authority to do so. He does not have authority to make other provisions that are necessary in this bill.

I must say this is a temporary bill. It is only on an emergency basis.

I am willing to—and I think a lot of my colleagues are willing and concerned about the costs—take it out of the unspent FEMA money. We appropriated in this body about $60 billion for FEMA. I understand that maybe roughly $40 billion of that has not been spent.

If the Senator is concerned about the costs, we could take it out of FEMA and help people who really need help. The Secretary does not have the authority to do what needs to be done. And, second, the administration has not come up with any real plan to say where the money is going to come from. It is all just talk, words.

If the Senator from New Hampshire is willing to take the money out of FEMA, or if he is willing to say trim back a little bit to come up with a deal with 29 States to immediately pass a bill that may be trimmed down a little bit and paid for out of FEMA, then we would be doing the country a great deal of service.

But to stand here day in and day out for 27 weeks, for a Senator to stand on the floor and say we can't help people in Louisiana and the Gulf States, we could sure help New Yorkers after 9/11. We can help them, but we can't help the people on the gulf coast.

These are the same Medicaid provisions that we gave the people in New York City as a consequence of 9/11—the same eligibility standards, the same.

In other words, let us do it for the gulf coast people, if we can do it for New Yorkers. It is great for New Yorkers. We are all for it. Let us figure out a way to help the people in the Gulf States—help them a little bit. This administration does not want to do so, and the other side doesn't want to do so. I cannot believe it when the big rush right now is to cut Medicaid—cut Medicaid, cut Medicaid. We want to help the people.

Mr. DURBIN. Madam President, will the Senator yield for a question?

Mr. BAUCUS. I would love to yield to the Senator.

Mr. DURBIN. If the Senator from Montana will yield for a question, I would like to ask him about New York City. Isn't it a fact that after the 9/11 disaster, within 2 weeks we expanded Medicaid coverage under a disaster relief Medicaid assistance program so that 340,000 New Yorkers were able to start receiving Medicaid for 4 months? We spent $670 million on that assistance. We did that within 2 weeks. And now 7 weeks have passed, and this administration has not come forward with any help for Hurricane Katrina victims when it comes to Medicaid.

Mr. BAUCUS. In answer to the question of my colleague, it is absolutely true. We came to the aid of people who needed aid in New York within a couple of weeks. That was the right thing to do. We are a passionate people, a country willing to help people in need, particularly when it is an emergency need.

Mr. DURBIN. If the Senator will yield for a further question, this is a bipartisan amendment which the Senator just offered, along with Senator GRASSLEY, Republican of Iowa, Senator BAUCUS, of course, of Montana, and many other colleagues to come forward to try to help the victims of this hurricane. Have we turned the page now? Are we not thinking about what happened down there? I hope we haven't.

Let me ask the Senator from Montana, is it a fact, No. 1, that the relief

that he is proposing is temporary and short term? It is 5 months of Medicaid relief for these people who are in the worst circumstances. And, second, it would help States like mine and many others that have brought in evacuees. In our case, we brought 5,000 evacuees into our State to help them out. We have incurred more expenses in Medicaid expenditures to help these families so that these caring people in States around the gulf coast area who are really trying to help will not be ignored by the Federal Government.

Is that the intent of the amendment?

Mr. BAUCUS. The Senator is correct. That is the intent of the amendment. I thank the Senator for raising that point.

This is not a partisan effort at all. This is just a compassionate effort on the part of both Republicans and Democrats. I might say that all Senators—Republicans and Democrats—in the States affected would like to see this bill passed. All the Governors in the States affected—Republicans and Democrats—would like to see this bill passed. The House delegations from the States affected would like to see this bill passed. It is very much bipartisan.

The second point the Senator made is a very good one. A lot of evacuees have gone to a lot of States across the country—many in Illinois. Some have come to my State in Montana from New Orleans. We are very gracious and want to do all we can to help the people who are so dislocated.

If we stop and think for a moment, the Senators lead pretty comfortable lives. For these people, it is incredible hardships they are going through. We forget all they have to go through. They don't have houses, anyplace to live, no way to pay bills, no job, their kids are out of school, or where they can go to school, health care needs—they are incredibly affected.

I do not know how many Members have gone down to the gulf coast. Raise your hand if you have gone down to the gulf coast and have seen it all. There are two. We have seen it. It is Biblical. There is not a word for it. It is a tragedy that is affecting people on the gulf coast. It is Biblical. My Lord, my God, why can't the Senate do something about it?

Why are we here, Senators? To say no? That is not why we are here. We are here to do the right thing. We are not asking for the Moon. We are just asking for a little bit of help.

Mr. DURBIN. If I can ask one more question, so those who are following this debate understand, the Senator asked unanimous consent to go to this temporary measure—a 5-month measure, a bipartisan measure—to help the victims of Hurricane Katrina, and because one Senator from one State on the other side of the aisle objected, we cannot move to consider this issue at this time. Is that true?

Mr. BAUCUS. The Senator is correct. That is the situation we are in.

Mr. DORGAN. Madam President, if the Senator will yield for a question, I think I heard those who object to the unanimous consent request of the Senator from Montana suggest that somehow he is trying to solve a problem that doesn't exist; that this can be handled in other ways. Could the Senator from Montana describe to me the circumstances of people who are affected? If this legislation is not made available on an emergency basis in human terms, isn't it a fact that we have people, particularly low-income people, who have lost everything?

Incidentally, I went to the Armory here in Washington DC and talked to those folks who have come here, left home with nothing to escape the ravages of the flood waters and are there with their children and the clothes on their back and nothing else.

What are the real consequences for people who are in that situation if the Senator's legislation is not adopted? We did this for 9/11 victims. We did it for a good reason, I assume. If we don't do it here, and now weeks have marched by with no action, what are the human consequences of our deciding not to do this?

Mr. BAUCUS. I appreciate the Senator's question. People are not going to get health care. The diabetics will be scrambling wondering where they are going to get their insulin shots. People getting chemotherapy will be wondering where in the world they are going to get their chemotherapy. For mentally affected people, where are they going to get their assistance? Particularly those who have lost their jobs and don't have any insurance anymore, where are they going to get their insurance? If they lost their jobs and they do not have money to even pay for basics, let alone health care, how are they going to pay for food? Where are they going to live? It is incredible.

I wish all Members in this Senate would go to the gulf coast and walk around New Orleans, walk around the gulf coast of Mississippi, and feel, see, smell, taste how devastating this tragedy is. We would be rushing to pass this legislation if Senators would go down there to see what is going on.

Mr. DORGAN. If I might ask an additional question, this is about health care. Health care is not a luxury. When you or your kids are sick, particularly in the circumstances where you have been the victim of a significant disaster, you have been displaced and lost everything, health care ought not be a function of whether you have money in your billfold.

I ask the Senator from Montana, is it the case that your legislation will not break the bank? You have suggested other ways to pay for it. It is bipartisan. You are coming to talk about something that is an essential for people. This is not some luxury. We are talking about health care. When we talk about the five most important things for people here, there, or wherever, health care is right near the top. If you do not have health care, if you do not have your health, you do not have much.

The Senator from Montana has been here a number of times. My hope would be that our colleagues would not object and that the Grassley-Baucus proposal would be accepted and we would move on. This ought not be a point of contention at all. This ought to be easy for this Congress.

Mr. BAUCUS. Madam President, I might also add, the primary sponsor of this legislation is the chairman of the Committee on Finance, Senator CHUCK GRASSLEY from Iowa. Senator GRASSLEY is known in this Senate, probably more than any Member for doing the right thing. He is not a partisan. He is not political. He does what he thinks is right. It is clear to the chairman of the Senate Committee on Finance that this is right. I join with him to do something that is right.

We have talked this out with all members of the committee, both sides, how to tailor this, modify it, make it work or not work, and I am quite confidence it would be agreed to unanimously by all members of the committee.

I mentioned the States affected. The Senators of the States affected all want this. The Governors all want this—and there are more Republican than Democrat. And the mayors want it because they know it is the right thing to do.

Again I make the request.

Mr. SUNUNU. Madam President, reserving the right to object, and I apologize for taking additional time, I know Senator REED is due to be recognized by consent as soon as this lengthy and, in my opinion, unnecessary discussion is complete. It is important to note this bill does not take the funding out of FEMA as has been represented. We suggested that.

Mr. BAUCUS. If the Senator is willing to take it out of FEMA, we are willing to do that.

The PRESIDING OFFICER. Is there objection?

Mr. SUNUNU. Madam President, I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Rhode Island is recognized under the previous agreement.

Mr. REED. Madam President, I will continue my remarks about the LIHEAP program. I certainly salute the Senator from Montana for his passion, his eloquence, and his sense of decency. We should be moving on this legislation. It is a bipartisan effort, just as this LIHEAP legislation is a bipartisan effort. They are both linked by the devastation in the gulf. So many families have been displaced from their homes, their homes destroyed. They are looking for health care. Other families in the Northeast, in the Midwest, in the Far West, and in the Mountain States where this winter will be cold and difficult to bear will also see the effects of Katrina. They have seen them already in rising energy prices.

As I indicated in my prior remarks, this is the second wave, the second surge. The first was waters through the gulf. The second is increased energy prices for the rest of the country.

No family should be forced to make choices between heating or eating. That is precisely what many families will be faced with this winter unless we adopt this proposal and increase LIHEAP funding by $3.1 billion.

The RAND Corporation found in a study that low-income households reduced food expenditures by roughly the same amount as their increases in fuel expenditures. They cut back on food to pay for heat. That is not something any American wants to see or wants us to tolerate.

It is particularly difficult for seniors. Recently, I visited the home of Mr. Ohanian in Cranston, RI. Mr. Ohanian is an 88-year-old veteran of our military service. He served this country. Now he lives on a Social Security check of $779 a month. One does not have to have advanced training in economics to figure out that with these energy prices this year in the Northeast—Senator COLLINS indicated she was paying $2.70 a gallon for heating oil—that adds up quite quickly, and it wipes out a monthly income of $779. As a result, Mr. Ohanian has to go to his daughter's house sometimes for food, goes to soup kitchens to get help. He deserves it. He served this country in a most difficult time, in uniform. What we have is a situation where last year Mr. Ohanian received $600 in LIHEAP payments. It helped. It did not pay for all the fuel costs, but it helped. Unless we put this money in, his costs will be way out of proportion to what he can bear.

Recently, the Social Security COLA was announced. It is $65 a month. Any increase is appreciated, but that is already wiped out more or less by increased contributions to health care programs that are required. When you put on top of that for a senior this huge spike in energy prices—be it natural gas, heating oil, or propane—they are losing ground rapidly, unless, of course, we act to at least bring them up to the level of last year's program.

We need to fully fund the LIHEAP program at the $5.1 billion authorized in the Energy bill. This amendment would do that. It would add $3.1 billion in emergency spending to the $2 billion the President has requested. That is roughly what we had last year, just a little bit below. Do the math. If we have just $2 billion and we have increased energy prices—just take heating oil. Last year, heating oil was roughly $1.92. Expensive? Yes. Now it is $2.70. The same amount of monthly income, huge increases in energy costs. How can we provide that assistance we provided just last year?

As Senator COLLINS indicated, look at the poverty numbers. Poverty has increased every year for the last several years. There are more people qualified for this program. This is an anticipated disaster—in some respects, the same way Katrina was anticipated.

I hope we can learn from Katrina, not just sit back and watch idly, watch the impact, watch poor people suffer. Not just poor people who were caught up in the tumult and terror of New Orleans—but poor people in Portland, ME; New Haven, CT; in Cleveland, OH; in Seattle, WA; in Butte, MT. I expect it gets cold out there in the winter. They will be caught up.

I thought after Katrina we had a coming together, led by the President, to recognize we are failing people who are poor, that we are not doing what we have to do to keep faith with them. I can remember his words at the Washington National Cathedral. Have those words evaporated already? Are those words not operative now? I hope they are. I hope we take them to heart. If we do, we will pass this amendment, and we will pass the legislation of Senator BAUCUS and Senator GRASSLEY. That is what I thought the President was telling us to do at the Cathedral speech.

Now, even if we do have funding of an additional $3.1 billion, we are still only serving about one-seventh of the 35 million households poor enough to qualify for assistance. So we are not talking about a program that has so much money that they do not know what to do with it. What they have is so many customers and clients that they do not know what to do with them. And what happens, is these people will apply to the community action agencies across the country, and they will be put on waiting lists. They will try to help some. We can do much better. I hope we can start by passing this legislation.

We also need Presidential leadership. What has happened from the speech on the pulpit of the National Cathedral until today when it comes to LIHEAP? Nothing. Those were very powerful words, but they require powerful actions. We have not seen, in this respect, those actions.

We have to do other things to get our energy house in order. In fact, this is not just an issue of domestic politics. It is probably the single most important thing we can do over the next several years to improve our strategic position in the world vis-a-vis those who would be our adversaries or those who compete with us. From a national security standpoint, we have to take steps to make our energy future more independent, more sensible. But we have to do things today that will help Americans.

I am very proud Senator CANTWELL is a cosponsor of this particular amendment. She is also the sponsor of the Energy Emergency Consumer Protection Act to bring prices down at the gas pump in the wake of natural disasters such as Hurricane Katrina.

In addition, we have to pass Senator DORGAN's Windfall Profit Rebate Act which imposes a temporary windfall profit tax on big oil companies and uses the revenue to bring a rebate to American consumers to help offset the higher cost of oil and gasoline products. I am told the oil companies—the energy companies—will be reporting their quarterly earnings in the next few days, and most estimates are they could be the most profitable reports ever issued by companies in this country because of this extraordinary run-up in pricing. Some of that money should come back to Americans.

Total energy spending in this Nation this year will approach $1 trillion—24 percent higher than in 2004. It will claim the largest share of U.S. output since the end of the oil crisis 20 years ago. Oil and natural gas companies make huge profits while workers' salaries are declining in real terms. This is wrong. We have to fix it.

We have to pass Senator CANTWELL's legislation, Senator DORGAN's legislation, and, of course, immediately, we have to help restore funding and increase funding for LIHEAP program. The President and Secretary Bodman have called on Americans to reduce their energy use. They have to lead by example. One way to lead is to support, articulate, and advocate, for sensible energy programs and this LIHEAP proposal to increase that funding.

We have to do much more. I hope we begin, with respect to energy, by recognizing the pending crisis that will face so many families in this country, so many seniors. They will be cold this winter. They will give up eating so they can heat their homes. They will miss mortgage payments and rent payments because they have to at least stay warm.

We can do much better. America can do better. I hope we do.

I yield the floor.

Mr. BOND. Pursuant to section 402 of H. Con. Res. 95 of the 109th Congress, the fiscal year 2006 concurrent resolution on the budget, I make a point of order against the emergency designation contained in this amendment.

Mr. REED. Madam President, I move to waive the applicable sections of the act referenced by the Senator and at the appropriate time would ask for the yeas and nays.

Mr. BOND. Madam President, I ask unanimous consent that this measure be set aside to be set for a vote at a time determined by the leaders on both sides.

The PRESIDING OFFICER. Is there objection?

Ms. CANTWELL. I object.

The PRESIDING OFFICER. The objection is heard.

Ms. CANTWELL. Reserving the right to object, Madam President, I would like to enter into a time agreement to speak on this amendment.

The PRESIDING OFFICER. Does the Senator object to the request?

Mr. BOND. Madam President, there is time to speak. We would be happy to find the time for the distinguished Senator from Washington to speak. We are just asking this be set aside. If the objection is sustained, we will go immediately to a vote and get it out of the way.

Mr. REED. Madam President, parliamentary inquiry: I believe what happened, the floor manager raised a budget point of order. I have requested a waiver of that act. We have agreed at some time in the future we will have a vote on that. Now it is in order to have further discussion of the amendment, and Senator CANTWELL can discuss her amendment.

Mr. BOND. Madam President, I believe that is correct.

The PRESIDING OFFICER. The Senators are correct.

Mr. BOND. Madam President, before I yield the floor to the other Senators who wish to speak, first, let me point out that while LIHEAP is a very important subject, it has nothing to do with this bill. There will be the Labor-HHS appropriations bill on the floor next week. There will also be a supplemental bill which will deal with it. While I am a big supporter of LIHEAP, this measure should be appropriately discussed in the forum where LIHEAP is handled. Either one of those two vehicles is appropriate.

Now, Madam President, I ask unanimous consent that at 4:30 today, the Senate proceed to a vote in relation to the Kennedy amendment No. 2063, to be followed by a vote in relation to the Enzi amendment No. 2115. I further ask consent that prior to those votes there be 3 hours for debate equally divided between Senators ENZI and KENNEDY to run concurrently on both the Enzi and Kennedy amendments; provided further that no second-degree amendments be in order to either amendment prior to the votes. I further ask consent that if either amendment does not have 60 votes in the affirmative, that amendment then be automatically withdrawn or fall to the point of order, if applicable. I further ask consent that there be 2 minutes equally divided prior to each vote.

The PRESIDING OFFICER. Is there objection?

The Senator from North Dakota.

Mr. DORGAN. Madam President, reserving the right to object—I do not think I will object—but in order to expedite consideration of amendments on the floor, I was wanting to offer the remaining amendment I have, with very brief comments, so that at least I have offered the amendment on behalf of myself and Senator CRAIG. I was hoping to be able to do that following the remarks of the Senator from Washington, who I believe is going to comment on the legislation she is cosponsoring with Senator REED. So if it would be acceptable to the chairman and ranking member, following the remarks of the Senator from Washington, if I would be recognized simply to lay the amendment down. I ask unanimous consent to do that.

Mr. BOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the initial request?

Without objection, it is so ordered.

The Senator from Washington.

Ms. CANTWELL. Thank you.

AMENDMENT NO. 2077

Madam President, I do rise to support the Reed-Collins amendment to further make a down payment on the low-income energy assistance program known as LIHEAP.

This is a program the State of Washington knows all too well. I say that because our State was hard hit by an energy crisis in the last several years that left many low-income people suffering the consequences of high energy costs. If anything, the Northwest is a poster child for what is about to happen to the rest of the country. Those results were devastating. In one county alone, Snohomish County, where I live, we had a 44-percent increase in disconnect rates in 1 year. That meant 14,000 people lost power to their homes because of high energy costs.

Those high energy costs were also passed on to school districts, which had to choose between hiring teachers and getting books and paying the high cost of energy. It also had an impact on economic development. Businesses decided that perhaps they did not want to move to that county if they were energy-intensive users and businesses on low margins until the energy rates come down again. We saw people who actually lost their jobs and lost their pensions because of those high energy costs.

What this amendment does, added to this bill, is to give the consumers in America who are the most hard hit by energy costs some relief. If you think about it, we are talking about the elderly, the disabled, those who are on low incomes. We are talking about an individual who may make less than $12,000 a year or a couple who may make less than $16,000 a year. Now they are faced with anywhere from a 30- to 50-percent increase in energy costs. It is a question as to whether they are going to be able to keep the lights on and the heat in the home or whether they are going to be left out in the cold by this administration and by this Congress.

I hope my colleagues will do the right thing in adopting the Reed-Collins amendment and being serious about LIHEAP, knowing the devastating consequences of the high cost of energy to our economy and people on the margins. It is heartless to think we would continue to adopt resolution after resolution dealing with other impacts to our economy and leave those most vulnerable out in the cold.

The LIHEAP Program serves a very small percentage of the people who actually qualify. Last year, 72,000 Washington State residents received assistance from the LIHEAP Program, but many more could actually qualify. That is, there are many more who are living on the margins who need that kind of help and assistance to stay in their home.

Last week, I met with a woman who has lung cancer, the mother of five, who is disabled, who needs the LIHEAP Program to continue to remain in her home. Yet 76 percent of those who qualify who will not get aid. This piece of legislation will not help all of them, but it will help a small percent. It will help a small percent of Northwest residents who will be battling the high cost of energy again for another year in a row, to get some assistance from the low-energy income program.

This amendment should be a top priority for the Members of this body. I say that because, having fought to get these LIHEAP Programs from the contingency fund in the past when my State was greatly impacted, I know how important it was to the residents who actually received them. Now the rest of the country is going to be impacted by those same dynamics of very high energy costs. The question is whether we will, as a body, approve the Reed-Collins amendment to actually take the appropriations level up to the level that has been in the authorizing bill. I think it is the prudent thing to do. I think it is the wise thing to do to help the residents of this country, who are going to suffer from a very tough winter and high energy costs.

I, like my colleague Senator REED, want to fight for other legislation that will help us reduce the high cost of energy and certainly look at the practices of predatory pricing. We need to give consumers the confidence that there is competition in the marketplace, that there are Federal agencies that will protect consumers from price gouging, and that those who participate in price-gouging activities will spend time in jail. But in the meantime, as we are continuing to push and fight for that legislation, we need to make sure those who are most vulnerable in our society get the help and support they deserve. So I hope my colleagues will take the Reed-Collins amendment this afternoon and realize we cannot give tax breaks to others and leave those most vulnerable in our society without the hope of a warm, secure winter.

America can do better. We can take care of the elderly, the disabled, and the low income when it means they are going to have to pay exorbitant energy costs.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from North Dakota.

AMENDMENT NO. 2133

Mr. DORGAN. Mr. President, I send an amendment to the desk on behalf of myself, Senator CRAIG from Idaho, Senator ENZI from Wyoming, and Senator BAUCUS from Montana, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS, proposes an amendment numbered 2133.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict enforcement of the Cuban Assets Control Regulations with respect to travel to Cuba)

At the appropriate place in the bill, insert the following:

SEC. ____. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to—

(1) the administration of general or specific licenses for travel or travel-related transactions;

(2) section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515; or

(3) transactions in relation to any business travel covered by section 515.560(g) of such part 515.

Mr. DORGAN. Mr. President, I offer this bipartisan amendment on behalf of myself, Senator CRAIG, Senator ENZI, and Senator BAUCUS. It is an amendment that has been considered previously, and considered successfully by the Senate, but it has not made it into law because of problems in conference committees. It deals with the issue of restricting the rights of the American people to travel to Cuba.

As you know, we now have a situation where the American people are not free to travel to Cuba. We are free to travel to China, a Communist country. We are free to travel to Vietnam, a Communist country. We are free to travel to North Korea, a Communist country. We are not free to travel to Cuba, however. The reason for that is Fidel Castro has been sticking his finger in America's eye for a long while. It is a Communist country, a government that causes a lot of problems for our country, and the decision was made some long while ago that we are going to somehow punish Fidel Castro by restricting the American people's right to travel to Cuba.

We also, for 40-some years now, have had an embargo with respect to the country of Cuba. For most of that time, we also prevented American farmers from selling food to the country of Cuba. I have always felt it is basically immoral to use food as a weapon and to prevent the selling of food to the Cubans. Canadians sell food to the Cubans. European farmers sell food to the Cubans. But we could not; that is, until then-Senator Ashcroft from Missouri and I offered an amendment on the floor of the Senate that opened, just a crack, that embargo so that we are now able to sell some food into the country of Cuba.

We have sold about $1 billion worth of food since that amendment of ours became law. Even now, the administration is trying to shut down that ability of farmers to sell food into Cuba, by dramatically changing the legal definition of the term ''payment of cash in advance'' that is in the law, something the Congressional Research Service believes is inappropriate for the administration to do. With this change of definition they are actually requiring the payment for the food products our farmers would sell into Cuba to be made before the food is even shipped. That is not the way commerce works, and yet they are doing that to try to shut down the ability of American farmers to sell food into Cuba.

Nonetheless, we have sold $1 billion worth of food to the Cubans. It is the right thing to do. Withholding food and medicine as a part of any embargo is the wrong thing to do. Fidel Castro has never missed breakfast, lunch, or dinner because of our embargo. He has eaten just fine, thank you. It is poor, sick, and hungry people who get hurt with these kinds of public policies.

I put in this appropriations bill at the subcommittee level a provision that trips the administration's attempt to inhibit farmers from selling into Cuba. So I fixed that problem. That is in the bill as it comes to the floor. We had kind of a contentious discussion about that in the subcommittee, but I won. And again, on a bipartisan basis, we stuck that in the bill. It says to this administration: You cannot be doing these things that we believe are not legal to impede the ability of American farmers to sell food into the Cuban marketplace.

We have not, however, dealt with the issue of restricting the American people's right to travel to Cuba. Are we hurting Fidel Castro by prohibiting Americans from traveling to Cuba? I do not think so. All that does is slap the American people around by restricting their right to travel.

Let me show you a couple of examples, if I might. This young woman in this picture was in my office. This young woman's name is Joni Scott, a wonderful young woman. She went to Cuba. She went to Cuba to distribute free Bibles on the streets of Cuban cities. Joni Scott went to distribute free Bibles in Cuba. Why? She is a person of great faith, with a missionary spirit, and she wanted to take that faith and talk about that faith with the people of Cuba.

Well, guess what happened to Joni Scott. The U.S. government says you can't distribute free Bibles to the people of Cuba. You have to get a license from the State Department to go to Cuba, and they are not going to give you a license. She did not know that, of course. She simply went to Cuba to distribute free Bibles. The U.S. government slapped her with a big fine. Do you know who did that? The folks who are being funded in the bill, OFAC, the Office of Foreign Assets Control, deep in the bowels of the Treasury Department.

The people in OFAC are supposed to be tracking the financing of terrorism. They are the folks who ought to be looking at the arteries that control the money that finances Osama bin Laden, for example, and other terrorist organizations. But guess what. Those folks down in OFAC, the Office of Foreign Assets Control, have been spending their time tracking down American citizens who are suspected of taking vacations in Cuba—American citizens under suspicion of taking vacations in Cuba.

Well, they tracked Joni Scott down and slapped a big fine on Joni Scott, an American citizen, for trying to distribute free Bibles in Cuba. Apparently, they are not even embarrassed about it.

This is a picture of Sergeant Lazo, U.S. Army National Guard. He won the Bronze Star for bravery in the country of Iraq, fighting for this country. His children are in Cuba. One of his kids was very ill. After he finished his tour of duty in Iraq and was back in this country, he wanted to go visit his sick son. This United States soldier, a hero, having fought and won a Bronze Star in Iraq for his country, was told by his country: You might have been fighting for freedom in Iraq, but you don't have the freedom as an American soldier—you don't have the freedom as an American citizen—to go visit your sick child in Cuba. Unbelievable.

We voted on that here on the floor of the Senate. The only way I could get that up for a vote was to require suspension of the rules, which takes 66 votes. I got 60 votes. It fell short. So this man has never been allowed to go to Cuba to visit his child.

There is an epilog to this. His children are going to come here for a brief visit. The Cuban Government has approved that. But the U.S. Government won't give him the freedom to travel to Cuba to visit his children.

I could talk about Joan Slote. Joan Slote answered an ad in a bicycling magazine to take a cycling trip to Cuba. Joan was 75 years old. She was a cyclist and she wanted to go on a bicycling tour with a Canadian bicycling group. She did. She came back and found out her son had brain cancer. She didn't get her mail on time and didn't see that the Federal Government was trying to fine her $10,000 for having traveled to Cuba to ride a bike. Because she was attending to her son, she didn't get the letter from the Treasury Department, so they decided they were going to try to slap an attachment on her Social Security check.

This is America? I don't think so. We should restrict the freedom of the American people because we want to slap around Fidel Castro? How about deciding we are not going to restrict the freedom of the American people. If you want to bring a different kind of government to Cuba, you do it through trade and travel. That is what we argue in regard to other countries. This administration and past administrations have said that the way to advance the interests toward democracy and greater human rights in Communist China is through trade and travel. The way to

advance the interests toward greater human rights and democracy in Communist Vietnam is through trade and travel. Cuba? No, we have to restrict the right of the American people to travel to Cuba. And if they do, track them down. There is a little agency, this arthritic agency in the Department of Treasury, called OFAC. They have more people in that agency tracking American citizens who are suspected of going to Cuba than they have searching for the financial links that are supporting Osama bin Laden's terrorism. Isn't that unbelievable? I have half a notion to offer an amendment to get rid of OFAC. We have all these acronyms around here. All I know is, these are people sitting someplace in the basement of the Treasury Department trying to figure out, through lists of names, whether somebody might have gone to Cuba. And God forbid they brought a cigar back. Let's double the fine.

In fact, even more Byzantine, last year OFAC sent people to airports around the country to train Border Patrol and Homeland Security agents on how to intercept Americans who were suspected of visiting Cuba. I looked through the list of what they recovered. The most ominous thing they recovered was carbon dioxide used to make seltzer water. They did pick up a couple cigars and some ordinary cold medicine. But they certainly took some resources away from Homeland Security that probably ought to have been looking at terrorist threats so they could track down Joni Scott who wants to deliver Bibles on the streets of a city in Cuba.

There was also the disabled sports team that participates in marathons using artificial legs and in wheelchairs. They planned to participate in the Havana Marathon and then distribute racing wheelchairs and handcycles to Cuba's disabled athletes. Except OFAC said that our team couldn't go. These disabled Americans were told, no, you can't go. That is unbelievable.

We will have a vote on this. The President will threaten a veto of the bill if it is in the bill, and we will have people around here scratching their heads and thumbing their suspenders and saying: How should I vote on this?

How about a simple vote that represents a little bit of common sense, just a smidgeon. Go to any café in America, have a cup of coffee and ask somebody, do you think it is a good idea that we ought to slap around the American people and go investigate them and chase them down and slap them with a $10,000 fine because they joined a Canadian bicycle tour of Cuba? Or do you think we ought to say to a veteran who earned the Bronze Star for heroism in Iraq that when you come back to this country, you have all the freedoms of an American except you don't have the freedom to travel to Cuba to see your sick son? We know what the answer is. If we have enough people around here with the courage to vote the right way, to use a smidgeon of common sense—I am not asking everybody to use all the common sense, just a smidgeon, this just requires a blink—to vote the right way, maybe we will get something done.

This isn't about Democrats or Republicans. It is about public policy that makes sense for this country. If something is happening that is basically ''dumb,'' we ought to fix it. This makes no sense. This policy is at odds with our entire foreign policy with respect to other Communist countries. Can you imagine today if I proposed having the Cuba policy with respect to China and Vietnam? We would say to those Americans, you can't travel to China. Why? Because we don't like the Chinese Government, so you can't go there. Does that make any sense? Do you think that would be in our best interest? Would that represent good foreign policy? The answer is no.

We have advocated that the best way to move these countries toward greater human rights and greater democracy is through trade and travel. It would be nice if the only voice Cubans are hearing would not be Fidel Castro but, in fact, Joni Scott or Joan Slote or a couple from Dubuque who might be vacationing in Havana. It would be nice if the Cuban people would hear those voices as well. They do not now because they are prohibited as a result of American law. It is a law I aim to change.

I offer this amendment with my colleagues, Senators CRAIG, ENZI, and BAUCUS—two Republicans, two Democrats. This is not about partisanship. It is about doing the right thing. My hope is this amendment will see a successful vote. I understand there will be some sumo wrestling between now and when we get a vote, because no one ever wants to have a vote on this. There will be all kinds of contortions going on to find a way to avoid having a vote on this. But it is perfectly germane and relevant. It is a restriction on funding. My expectation would be before the bill gets off the floor, we would have a vote on this. I hope a sufficient number of colleagues on both sides of the aisle will decide to vote for it and we can get this done finally.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I support the amendment offered by my friend from North Dakota. He has made an excellent case for this amendment. I want to note that I am a cosponsor of bipartisan legislation introduced earlier this year that would allow this travel between the United States and Cuba.

Current policy with regard to Cuba, as enforced by the Treasury Department's Office of Foreign Assets Control, permits travel to Cuba today only with permission in the form of a license from the Treasury office for certain reasons such as visits to relatives or journalism or religious or humanitarian purposes. According to Treasury documents, between 1996 and 2003, about a third of Cuba travel cases opened for investigation were referred for civil penalty enforcement action.

As the Senator from North Dakota said, these typical penalty assessments for unauthorized travel range from $3,000 to $7,500. That is preposterous. For the last 40 years, the United States has maintained this isolationist position toward Cuba, and the current regime has been there the entire time. I believe, as the Senator from North Dakota so eloquently stated, that permitting travel to Cuba will help demonstrate to Cuba's citizens what a democracy is all about.

I tell my colleague that I had a young group of baseball players who went through the entire rigmarole as a young team to go to Cuba a number of years back. They had to go through an entire process. It was amazing what they had to go through to go down and participate in a Little League team playoff with a number of players from Cuba. I had them come back and visit with me when they returned. They wanted to thank me for helping them get through this process. I sat there and listened to them as they told me that they actually lost every single game. Finally, it was so lopsided that the Cuban young boys and they got together and decided, this is ridiculous. We are just losing. So they intermixed their teams, half Cuban and half American, and finished the playoffs that way. What a great thing for democracy. These young people showed to all of us exactly what we want happening in Cuba, that we can sit down, a group of 12-year-old boys, and learn how to get along and to be able to promote some real important values.

Mr. DORGAN. Will the Senator yield for a question?

Mrs. MURRAY. I am happy to yield.

Mr. DORGAN. I am wondering if that wasn't under the old rules. The new rules have been tightened up dramatically by administration edict. Under the new rules, teams such as that in most cases would not be able to visit Cuba.

Mrs. MURRAY. The Senator is absolutely correct. This was about 10 years ago. Since that time, if these young kids were to come today to my office to ask for help, they would not be able to go and do it. What a way to dampen the enthusiasm of young boys in our country. It is telling them that democracy is not about conversations and learning and education and participation. I think that is a negative message. I appreciate the Senator's offering the amendment. I know the administration has issued a veto threat on this bill if this provision is allowed to be included. I say that veto threats have been made on other provisions in this bill. I don't see any reason why the Senate should not go on record and state its view. It is time to lift the travel restrictions on Cuba for all the reasons the Senator from North Dakota has outlined today. I hope we will

get to a vote and be able to move forward on this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me finally show the chart I mentioned. I have many others. OFAC, Office of Foreign Assets Control, down in the bowels of the Treasury Department, is supposed to be tracking terrorists. Here is what OFAC did. These are disabled marathoners. They trained and trained. In fact, as I understand it, these folks even had airline tickets, and they had everything all set. But were they allowed to go to the international meet in Havana? No. No, they were turned down by our country because you don't have the freedom to do that. To say that these folks were disappointed is an understatement. They might wonder about whether we have freedom in this country, when we don't have the freedom to travel to this Cuba. Why? Because we don't like its leaders.

Look, there are many countries that have leaders I am not particularly fond of. I don't want to restrict the right of the American people to travel there. In addition to Joni Scott and disabled athletes and so many others, the stories now are unbelievable. In the last 3 years, this has been laced up tight, even for folks with close relatives. I can tell you of people whose parents were dying, on their deathbed, 3 days away from dying, and their children in this country were not allowed to go see their mother or father in Cuba.

I won't put up the picture of the guy from the State of Washington whose father died, and his last wishes were that his ashes be dispersed on the grounds of the church he served as a pastor in Cuba. So a compliant son, after the death of his father, said: I want to do that. It was his last wish. He took his dad's ashes and went to Cuba and went to the church and distributed his father's ashes on the grounds of the church his father had ministered at for many years. Then this country's Government tracked him down and tried to slap a big fine on him for doing it. Unbelievable. We can do better than that. Our country doesn't deserve this sort of nonsense.

I appreciate the support of the Senator from Washington. As I indicated, this is bipartisan. It is not about Republicans or Democrats. It is about what is thoughtful and what is thoughtless. Let's choose the thoughtful approach for a change.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2063, AS MODIFIED

Mr. KENNEDY. Mr. President, as I understand it, there is a general agreement among the leadership that the time between 1:30 p.m. and 4:30 p.m. be equally divided between myself, who offered an increase in the minimum wage, and the Senator from Wyoming, Mr. ENZI, who has offered a different approach. We will have an opportunity to control the time in that way.

Mr. President, I yield myself what time I might use.

At 4:30 p.m., we will have an opportunity to vote in this body on whether there ought to be an increase in the minimum wage, a minimum wage that has not been increased over the last 9 years. I am very hopeful that we will vote in this body in support of the proposal I have before the Senate which will increase the minimum wage by $1.10. This is the figure that was included in the Republican alternative of over a year ago. The Republican alternative had additional provisions, and we will have an opportunity to talk about those proposals.

For the information of those people who might be listening to the debate, here is our amendment. It is 2 pages long, and it provides an increase in the minimum wage of $1.10. This is the Republican proposal, which is 87 pages long, which will change the whole concept of the minimum wage and effectively eliminate coverage of the minimum wage for up to 10 million Americans.

The increase in the minimum wage is not complicated. We increase it $1.10. We do it over a 2-year period. It is all in the 2-page amendment I have offered.

There is an alternative, which is the Republican alternative, which basically undermines, in a very significant and important way, the coverage for minimum wage workers and effectively eliminates coverage and protection, even for minimum wage workers.

We will have a chance for this body to make a decision as to whether they want to see those workers in this country, who have been left out and left behind, get a modest bump in their income.

I offered this measure on this legislation because this is the vehicle which carried the increase in the cost of living for Members of the Congress and Senate. It seems to me, if we were going to vote on that, we ought to vote on an increase in the minimum wage. It is the judgment—and one I support—that Members of Congress will not take a cost-of-living increase in their pay this year. We defer that increase.

The fact remains that over the last 9 years, the Congress has increased its pay by $28,000 on seven different occasions. On seven different occasions, it has raised its salary, but we have not increased the pay for those who are at the lower end of the economic ladder who are making minimum wage. I think that is absolutely unconscionable. We will have an opportunity this afternoon to find out whether we are going to do that. In the institution that has raised its salary $28,000 over the last 9 years, we will have an opportunity to see whether we are going to increase annual income by $2,300.

This chart is an indication of the tradition of the Senate since the increase in the minimum wage.

This demonstrates very clearly the increase in the minimum wage. The initiation was by President Roosevelt back in the 1930s and then Harry Truman increased it and then Dwight Eisenhower, a Republican, increased it. The history of the increase in the minimum wage has been bipartisan. Dwight Eisenhower increased it. President Kennedy increased it; President Johnson; President Ford, a Republican, increased it; President Carter increased it; President Bush 1 increased it and President Clinton. So this has been bipartisan.

It is difficult for me to understand how the increase in the minimum wage has ended up as a partisan issue. It has been bipartisan. The reason it has been bipartisan is because of whom the minimum wage affects. The fact is minimum wage workers are men and women of dignity. They are hard workers. They are the men and women who clean out the buildings for American commerce. They help and assist our schoolteachers in schools all over this country. They work in our nursing homes to provide help and assistance for the frail elderly, the elderly who have sacrificed so much for their own children and have done so much to make this a great nation. Many of them are served by the minimum wage.

First, these are men and women of dignity, working hard, more often than not having two or even three jobs, trying to provide for their families and having an increasingly difficult time to make any ends meet, and we will get to that.

This issue primarily affects women because about 65 percent of all minimum wage workers are women. The majority of the women who earn the minimum wage have children. So it is a women's issue, it is a children's issue, and it is a family issue because we have families, heads of household in many instances, single moms or single dads, trying to provide for their children, working one or two or even three jobs, trying to make ends meet. So it is a women's issue because so many of the minimum wage workers are women and a children's issue because those children's lives are affected by obviously the circumstance of the one who is providing for them. It is a civil rights issue because so many of these jobs are open to men and women of color. So it is a civil rights issue, a family issue, a women's issue, a children's issue, but most of all it is a fairness issue.

The American people understand fairness. They understand if someone is going to work 40 hours a week, 52 weeks of the year, they should not have to live in poverty. Republicans

have understood that, Democratic Presidents have understood it, and I cannot for the life of me understand why our Republican friends on the other side of the aisle, when we have changed our increase in the minimum wage from $2.10 down to $1.10 over the next 2 years, refuse to be willing to accept it.

What is it that they have against working poor people, men and women who are trying to get the first rung on the economic ladder? What is it about it that is so offensive to this body that we do not give them an increase in the minimum wage and we give ourselves repeated increases? That is the issue. And at 4:30 this afternoon, this institution will have a chance to express itself.

The American people understand this. The American people understand the minimum wage. There are a lot of complex issues, and men and women across this country are working hard every single day. They have little time to spend trying to figure out a lot of different kinds of challenges, but they understand an increase in the minimum wage. They understand what difference this makes. They will have an opportunity to hear about it because this issue is not going away. No matter how this turns out this afternoon, the Senate, and most importantly the workers at the minimum wage, can be confident that I am going to continue to raise this as long as I am in the Senate. We will have an opportunity to vote on this repeatedly.

So we can find those of our colleagues who want to try and confuse the issue all they want with 87 pages, but this is an increase in the minimum wage which consists of 2 pages. That is what the vote is for this afternoon. Some of my colleagues want to rewrite the labor laws on this. Fine, let us get to it. But why are we doing that on this particular bill? Increase in the minimum wage, one can ask, why on this bill? Very simply, it was a good enough vehicle to increase the salary of the Members of Congress until yesterday when we neutralized it and it ought to be a good enough vehicle to provide some assistance to those on the first rung of the economic ladder. That certainly makes sense to me. That is not what the Republican alternative is about.

So we have seen that this has been historically something Republicans and Democrats, when they are at their best, have supported. Over a period of years, we have seen what has happened on the issues of productivity. We hear frequently that we cannot afford an increase in the minimum wage unless we are going to have an increase of productivity. It is an old economic argument we do not want to add to inflation, but if we have an increase in productivity, of course, then we can consider an increase in the minimum wage because it will not have an inflationary impact in terms of the economy.

All right. Let us take that argument and see what has happened in terms of productivity over the period of recent years. We have seen now, over the period of the last 40 years, productivity has gone up 115 percent. Notice that going back into the 1950s, the 1960s, the 1970s, the minimum wage and productivity lines were always intersecting because we kept the increase in the minimum wage and productivity together. That was an argument that was made. There is plausibility to it.

If that argument was good enough for the 30 or 40 years that we first had the minimum wage, look what has happened in recent times. Workers have increased their productivity 115 percent, but the minimum wage has declined some 31 percent. So one cannot say we cannot increase the minimum wage because we have not had an increase in productivity. So this is certainly one of the factors.

This chart is enormously interesting because it shows that Americans' work hours have increased more than any other industrial country in the world. Look at this chart. This is an indication of the changes in hours worked per person over the period of 1970 to the year 2002. Actually, in a number of the countries in Western Europe, the percent has gone down, but we have seen in Australia, Canada, and most of all in the United States, it has gone up. Americans are working longer, they are working harder, they are producing more, and one would think that their paychecks would reflect it, at least at the lower economic end, or in all areas it ought to reflect it, but, no, it does not work that way. We refuse to give that kind of a recognition.

Unfortunately, when the President was asked about the challenges that people working for the minimum wage face, the individual conversation between the President and Ms. Mornin, who is a single mother of three, one of whom is disabled, Ms. Mornin said this was on February 4, 2005, in the Omaha Arena in Omaha, NE—I work three jobs and I feel like I contribute.

President Bush: You work three jobs?

Ms. Mornin: Three jobs.

President Bush: Uniquely American, isn't it? I mean, that is fantastic that you're doing that. Get any sleep? (Laughter.)

That is an indication that there are people in this city who just do not understand what is happening to people who are earning the minimum wage level. They are not getting any kind of recognition. People do not understand what their particular challenge is, but they ought to. I think more Americans do today than they did several months ago.

One of the most moving covers of any magazine was this September 19 cover of Newsweek. It shows a child with tears on her face: Poverty, race, Katrina, lessons of a national shame.

In this rather extensive article about the enormous tragedy that took place in the gulf and in New Orleans, it talks about the other America: An enduring shame Katrina reminded us, but the problem is not new. Why a rising tide of people live in poverty, who they are, and what we can do about it.

There are the striking photos of people who were left out and left behind. The whole article is about hard-working individuals in that region of the country down in Mississippi, Alabama, and Louisiana. Suddenly, the Nation was focused on their particular plight because when the floods came to New Orleans, we saw the tragic circumstances that they were subject to, the lack of preparation, the lack of organization, and the lack of outreach to them for so many days. These people are still struggling. Along the gulf coast, many of those communities were absolutely obliterated.

I had the opportunity, with several of my colleagues, to visit those areas 3 weeks ago or so and to meet a number of the individuals, not the particular persons who are outlined in this article but individuals whose lives were absolutely the same. We find so many of our fellow Americans who are living in poverty. We find increasing numbers of Americans living in poverty. There are 5 million more people living in poverty. I have a chart that shows it, but it certainly does not tell the story that one sees when they visit the gulf area and visit New Orleans and meet some of these families or even visit with them.

In my own State of Massachusetts at the Otis Base, where we had several hundred of the evacuees who came there, many of them rescued very late in the whole process because they had remained in their homes, some of them trying to help elderly and disabled people, and more than half of whom had arrived at Otis still in their damp and wet clothes, and they received an enormously generous and warm welcome, which they have expressed to our fellow citizens in Massachusetts.

Their stories and their lives are stories of lost hope, lost homes, lost jobs, lost health insurance, lost every aspect, tangible aspects of their lives, separated families, and lost everything but their faith and a sense of hope, a desire to try and get back on their feet. I ask, How in the world is someone going to get back on their feet when they are getting paid $5.15 an hour? How are they going to get back on their feet?

All they have to do is read through this magazine and read the life stories of these individuals who work and struggle in two and three different jobs. There is the case of Delores Ellis: Before Katrina turned her world upside down, this 51-year-old resident of New Orleans' Ninth Ward was earning the highest salary of her life as a school janitor, $6.50 an hour, no health insurance, no pension, and then she bounced around minimum wage jobs.

Ellis said: I worked hard all my life. I cannot afford nothing. I am not saying that I want to keep up with the Joneses, but I just want to live better.

Well, one of the ways that she can live better is an increase in the minimum wage. We cannot solve all of her

problems, but we sure can provide some assistance by increasing her minimum wage. It is as simple as that.

Americans can understand that. ''What can we do?'' they say. Well, there are a lot of things that have to be done. We cannot solve all of the problems, but we have to start someplace, and we are starting with an increase in the minimum wage.

Here are the figures: 5.4 million more Americans in poverty over the period of the last 4 years. This is a fierce indictment, and we are going to see these figures have even expanded as a result of the terrible effects from Katrina.

This is what has happened. As we look over history, we see at other times and other Congresses, when Congresses were controlled by Republicans and Democrats—look here, from 1960 all the way through 1980, we have the minimum wage effectively at the poverty level. This is in constant dollars. This was over a period of some 30 years, Republicans and Democrats alike. We say if you work hard, want to work and work hard, you are not going to have to live in poverty here in the United States.

Look what has happened in recent years. Here were the last two increases we had in the minimum wage and here is the collapse again of the minimum wage in terms of its purchasing power.

What did our brothers and sisters in the Congress, what did Republicans and Democrats know then, over a 30- or 40-year period, that we do not understand now? What is it, so that we are so unwilling to see a bump, a small bump of an increase in the minimum wage?

Oh, no, we have an 85-page alternative, they will call it. This is an alternative filled with what we call poison pills, filled with taking people out of coverage, filled with new changes in overtime legislation to limit people from receiving any overtime.

We know the importance of overtime to workers. Many of them use that overtime pay they receive to put away to educate a child. Here we have an attempt to undermine overtime for workers.

An argument is sometimes made that we cannot afford a minimum wage because it will be an inflator in terms of our overall economy. Our economy is somewhat uncertain at the present time, and therefore we cannot afford to have an increase in the minimum wage because it will have an adverse impact in terms of our economy.

This is an interesting chart: Increasing the minimum wage to $6.25 is vital to workers but a drop in the bucket of the national payroll. All Americans combined earn $5.7 trillion a year. A minimum wage increase to $6.25 would be less than one-tenth of 1 percent of the national payroll; one-tenth of 1 percent.

You say this is an inflator; if we increase this to $6.25, this is going to add to the problems of inflation we are facing. Here it is, it is less than one-tenth of 1 percent.

Look at what these working people are faced with. There is an increase in cost of gas of 74 percent. You ask so many of those people down in New Orleans why they were left trapped in New Orleans, and so many will tell you they were trapped because they couldn't afford a car or they couldn't afford the gasoline to get out, and therefore they were trapped. A number of them lost their lives. Others lost everything, because we have seen the increase in the cost of gasoline, 74 percent; health insurance is out of sight for any of these families, up 59 percent; housing and rental gone up through the roof, and college tuition—it has gone up 35 percent, effectively eliminating those possibilities to so many.

Now over this coming winter here, we have now at the end of October a chance to raise the minimum wage $1.10, the figure the Republicans had suggested last year. Here we have what is going to happen in our region of the country. In the colder region—not only the Northeast but in many of the colder regions—we are going to see a 50-percent increase in the cost of natural gas for heating, we are going to get about a 27 to 30-percent increase in the cost of home heating oil, and about an increase of 5 to 7 percent in the cost of electricity. Our part of the country uses 40 percent natural gas, 40 percent heating oil, and this is the rest. We see what is happening in the home heating oil.

Now we can say at least Congress is going to help some of these families because they are going to recognize the explosion of these costs of heating and keeping warm in these homes. In many instances it is as important as their prescription drugs and the food they eat. They are going to have to make some hard choices. This is the reality. We are saying at least give them $1.10. You are going to find out if any of the minimum wage workers, maybe working a couple of jobs and maybe with a home up in New England—their heating bills are going to go up $600 or $800 or $900 over the course of the winter.

What is Congress doing? Basically it authorized the $5 billion to try to help provide some relief. We hear the explanation for the increase in these costs is because of what has happened to refineries in the gulf. That is an act of God. We couldn't control it. So those refineries are down. Now we find out that the gas and heating oil have gone up and it is going to be particularly harmful to needy people, to poor people, to people earning the minimum wage.

Are we giving them any help and assistance? The answer is no to that. We are not seeing any increase in the home heating oil program, the LIHEAP Program. We are not seeing any increase in that.

They are getting the short shrift every single way: No help and assistance in facing a cold winter, no help and assistance we can provide by approving a $1.10 increase.

I see my friend from Iowa here on the floor. I want to point out to him, as someone who has been such a strong supporter on these issues, here is a two-page increase for the minimum wage in $1.10. Here is the Republican alternative, 85 pages. It rewrites the whole of labor laws, 85 pages. If you are going to be against it, why don't you just be courageous enough to say no?

No, no, they want to say: Oh, no, we have a real alternative in here. We are going to exclude a number of people who are covered with the minimum wage. That is where we are going to start, so they are not even going to get the $5.15 an hour. And we are going to make many people work overtime and not get overtime pay. Oh, yes, we will do that.

You know what else, I say to Senator HARKIN. There are provisions in here that say if you are an employer and you effectively violate what they call a paper report in here, you will get a nonmonetary fine. You will get no monetary fine, even though that might be an oil spill, that may be contaminated food. Why are we pulling that here in the Senate this afternoon? What is it about it that we suddenly know so much about that particular issue here on this particular legislation?

If you are going to be against $1.10, be against $1.10. But they have all of the other shenanigans in that legislation that are going to provide additional short shrift for the neediest people.

I will be glad to yield some time to my friend and colleague from Iowa.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank the ranking member for his leadership on this issue and so many issues that affect working families in America. Senator KENNEDY has been trying for years to get some measure of justice for the working poor in this country, trying to get the minimum wage raised. Senator KENNEDY has been out here each of the last 7 or 8 years trying to get this done. Every year the other side turns him back. But this year we cannot turn him back. We have to adopt this increase, this modest increase in the minimum wage.

We debated this amendment by Senator KENNEDY last March on the bankruptcy bill, to raise the minimum wage. It failed on a largely party-line vote 46 to 49.

We are back at it again. You would think after what we saw with Hurricane Katrina, where the mask was ripped off of George Bush's America, an America where the poor are out of sight and out of mind, you would think that Katrina brought home to us that they are very much present all over this country. By the poor, we don't mean those who are just not working, who are loafing or sloughing off; these are people who work. They go to work every day. They work hard. They try to raise their families. Yet, our minimum wage law says they are only worth $5.15

an hour, the same wage it was over 8 years ago. We have not raised it in 8 years.

Thirteen percent of our people are living in poverty. I say to my friend from Massachusetts, there is always this talk about all the people who got off of welfare in the last decade. They may have gotten off of welfare but they didn't get out of poverty. They are the working poor. They are working every day but they are not out of poverty. They may be off of welfare but they are not out of poverty.

You would think those of us here in the Senate who have had our pay increased several times over the last 8 years to adjust for the increased cost of living would at least raise theirs. Right now minimum wage workers are earning $10,712 a year. I don't know if any of you have ever read the book by Barbara Ehrenreich called ''Nickel and Dimed,'' where she went out and tried to live on minimum wage jobs and what it was like. I commend it for your reading. It will give you an idea of what people go through as they try to work and raise their families.

We keep hearing the age-old argument. I have heard it every time in the last 30 years I have served in both the House and Senate every time the minimum wage comes up: These are teenagers flipping hamburgers; nobody else makes that.

But we know what the facts are. Facts are stubborn things. We have a lot of doubt—don't trust me, trust your own Department of Labor. Trust the one that is run downtown right now. Here is what they will tell you: 35 percent of those earning the minimum wage are their family's sole breadwinner—35 percent. It doesn't sound like a teenager flipping burgers to me.

Sixty-one percent are women and one-third of those are raising children—61 percent of those are women. This is a women's issue, too, when you think about it. Most of them are stuck. Many of them are single parents. Many of them are not receiving child support, and they are doing their darnedest to raise their kids. They are working and they are making $5.15 an hour.

Last March, when we voted on the Kennedy minimum wage increase, there was talk that the Senate Finance Committee would move a markup of a welfare reauthorization bill. I heard the words on the other side of the aisle—let's not do it now; we will wait for welfare reauthorization. We have been waiting. There is no welfare reauthorization bill. There is none.

So now is the time to do it. We cannot wait any longer and neither can the working poor. The minimum wage needs to be raised to a level that is not just a subsistence wage but a wage that respects work, honors work, and rewards work at a reasonable level.

Listen to this: Franklin Roosevelt, when we passed the first minimum wage law in the 1930s and Republicans were opposed to it—I assume that comes as no surprise to anyone here—President Franklin Roosevelt said:

> No business which depends for existence on paying less than the living wages to its workers has any right to continue in this country.

He went on to say:

> By living wages I mean more than a bare subsistence level. I mean the wages of a decent living.

President Franklin Roosevelt had it right. America can do better than what we are doing right now, a poverty wage of $5.15 an hour.

Senator KENNEDY went over some things I think bear repeating when you look at what is happening.

I was in Iowa this weekend. What I am hearing more than anything else is the cost of natural gas prices, heating oil prices double. I heard testimony from a man that his heating oil prices have doubled.

Low-income people have to go pay their heating bills.

There is another little quirk in the law. The Senator from Massachusetts mentioned the LIHEAP program. We need to put money in the LIHEAP program. There is a little quirk in the law that even I didn't know about, and I have been working and supporting LIHEAP for all these years. If you are cut off of your supply, you are then ineligible for LIHEAP. Imagine that.

Let us say you get heating oil. It is a deliverable commodity. It is not like a natural gas pipeline. Let us say you can't pay your bills. You have some bills left over, you can't pay them, and they refuse to deliver heating oil to your home. You are not now eligible for LIHEAP. That is right. You have to get the money upfront.

That is what we are trying to get, more money for LIHEAP. Yet the other side will not allow us to do so. I had testimony from a young mother who got LIHEAP in this past year. You hear these stories. They tear your heart out. She is a single mother with a small baby. She said because they ran out of money, she put her baby in the bathtub in the small bathroom with a space heater during the day. Then at night, she puts her baby in two snowsuits and covers her up hoping that they would be warm all night as she put her in bed next to her.

Real people live this way. It is hard for some of us to imagine. Real people live that way. They are making the minimum wage. That is what she was making, minimum wage.

If you look at the price of gas, up 74 percent; health insurance, up 59 percent; housing, up 44 percent; college tuition, up 35 percent, yet the minimum wage is stuck where it was 8 years ago. Who can afford to pay all of these increases? Obviously, if you are one of these big corporate CEOs, here is where you are, up here. Here is where workers' wages and benefits are, down here.

Listen to this. I don't mean to pick on any one person. Mark Hurd took over as CEO of Hewlett-Packard in March of this year. He may be a fine, decent person. I do not know. I am casting no aspersions on him. I am just talking about what he got: an employment agreement worth $20 million in cash, stock, and perks. Included in his pay package was a $2 million signing bonus, a $2.7 million cash relocation allowance, free housing for a year, and a 4-year mortgage interest subsidy.

With housing costs up 44 percent in the last 4 years, imagine what it would mean to a low-income family to have a year's worth of rent or mortgage-free housing. Imagine that. But Mr. Hurd, who got $20 million, got that.

In 1999, Mercer Human Resources Consulting began tracking the proxy statements of 100 major U.S. corporations. In 2004, according to Mercer's survey, CEO bonuses rose 46.4 percent to a median of $1.14 million, the largest percentage gain and the highest level in the last 5 years. CEOs in this study enjoyed median total direct compensation of $4,419,300 per year. That CEO compensation figure in excess of $4 million is 160 times the income of the average U.S. production worker last year.

All we are asking for is a paltry $1.10 increase in the minimum wage. You would think this would be adopted unanimously in the Senate.

So you can see the ''suits'' are taking care of themselves in our society. But the working poor, forget about it. They are left on the side of the road in the shadows.

President Bush in New Orleans after Katrina said: ''We should confront poverty with bold action.''

Where is the bold action? Where is the strong voice in the White House asking this Congress to step up to the plate to increase the minimum wage and do what is right. You have just the opposite. We have the White House supporting the Republicans in the Senate saying no to this small increase in the minimum wage.

I think it is unconscionable. Have we in the Senate finally joined the Neiman Marcus crowd? Have we become so totally insulated from real families who shop at Wal-Mart and Kmart? Have we become so insulated from families who struggle to get by day after day that we can't even see the necessity of raising the minimum wage $1.10 an hour? Is that what we have become? I certainly hope not.

I am sorry that somehow it becomes a partisan issue. It should not be a partisan issue. I would have thought the other side would join and say, yes, we have to do this together. We wouldn't be standing here having this debate.

I urge my colleagues to support the Kennedy amendment. It is the right thing to do. It is long overdue. I hope when people come to vote they think of those families out there who have nowhere else to turn.

If we don't increase the minimum wage, they are going to be colder this winter, they are going to be sicker, they are going to go to the emergency

rooms, and we will pick up that tab, too. Their kids are going to be less healthy. They will not learn as well in school. Anxiety levels will rise and families will disintegrate.

To me, raising the minimum wage is a small price to pay for domestic tranquility, to say to those 37 million Americans out there—as I said, most of whom are women, many of whom raise families on the minimum wage—we can do better, and we have to do better.

I urge my colleagues to support this amendment. I thank my leader and my colleague from Massachusetts, not only for today but for all of the battles he has waged for so many years on behalf of basic justice and fairness for America's working families.

I thank the Senator from Massachusetts for yielding me this time. I thank him for his great leadership on this and many other issues of basic justice.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from New York may use.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Thank you, Mr. President.

Mr. President, I find it almost hard to believe that we are on the floor of the Senate arguing over the necessity for an increase in the minimum wage.

I am strongly supportive of Senator KENNEDY's amendment, and proud to cosponsor it. I urge my colleagues on both sides of the aisle to vote in favor of it and to oppose the second-degree amendment.

This amendment does not go as far as I or Senator KENNEDY and others would have preferred. It raises the minimum wage to $6.25 an hour, far short of the $7.25 an hour that Senator KENNEDY and I and 48 other Senators proposed in March. But we could never get a vote on that. This amendment, however, should have even greater support than the 50 cosponsors we had last March. It should pass unanimously out of this body. Fifty Senators just last March supported an increase to $7.25. And now we have to cut the increase with a hope that we can get, No. 1, the vote we are hoping to get on this appropriations bill, and, No. 2, an overwhelmingly bipartisan passage.

Since March, we have seen even more evidence as to why this is critical. At a time when working families are struggling to make ends meet, it is critically important that we do something.

Senator KENNEDY has called this amendment a downpayment on what is truly needed. Today, the Federal minimum wage is $5.15 an hour, an amount that has not been increased since 1997.

Unfortunately, the same cannot be said of the cost of living. Over the past 3 months, according to the Federal Department of Labor, inflation has increased more rapidly than any time since early in 1990.

We also know the poverty rate is going back up. The fact is, there has not been one net new private-sector job created in the last 4½ years.

This chart, which should be a rebuke to all of us, shows that we now have increased the number of people living in poverty. In 2000, we had 31.6 million people, which was far too many. Now we are up 5.4 million. Why? Because the economy is not creating jobs, and many of the jobs that are in the economy are no longer paying wages that families can live on and can work their way out of poverty.

We know everything else has gone up. Across America, people are spending 74 percent more on gas than they did at the beginning of 2001. Heating oil prices are expected to rise by more than 50 percent this winter. Such rapid price increases will force consumers, especially poor working people, to cut spending on clothing, health care, and food so they can get to work and keep warm this winter.

These rising costs and falling wages are illustrated in this chart. Where heating oil is going up dramatically, the buying power of the minimum wage is going down. Of course, we are in the post-Katrina phase, which, lest we forget, demonstrated in stark terms how so many Americans live every day on the brink of economic disaster. Any setback becomes a major obstacle to being able to pay for gas, pay for food, pay for health care and prescription drugs, pay for tuition, pay for all of the necessities of life.

It is hard to stand with this amendment before the Senate and not wonder, when will the majority stop giving privileges to the already privileged? At what point is it too much? Never has a political party given so much to so few who needed it so little. And it never ends. We are more than happy to continue to provide tax breaks for the wealthiest among us while we cut the social safety net, while we refuse to raise the minimum wage. Shame on us. At some point, there has to be a recognition that we are tilting the scales dramatically against average Americans. The middle-class wages are stagnant. Health care costs are going up. The number of the uninsured is going up because people who work hard for a living are no longer offered insurance or cannot afford to pay what it costs. Pensions and retirement security are at risk. There is something wrong with this picture.

With all due respect to those who have a different economic philosophy, rich people did not make America great. I am all for rich people. Ever since my husband got out of office and got into the private sector, I think it is great. I never knew how much the President really liked us; he cannot give us enough tax cuts. I have nothing against rich people; that is part of the American dream. But with all due respect, it is not rich people who made America great. It is the vast American middle class. It is the upward mobility of people who thought they could do better than their parents.

For more than 100 years, we have worked very hard to make sure the deck was not stacked against the average American. Teddy Roosevelt understood that if we did not have a fair playing field, if people were permitted to monopolize capital and abuse labor, a lot of people would get rich, but the vast majority of Americans would never get ahead. So he began to agitate for and accomplish making sure we had a fair economic system.

As we moved through the 20th century, we saw adjustments made. Franklin Roosevelt understood that the hazards and vicissitudes of life strike any of us and that a fair and just society tries to provide a little help so that people overwhelmed by circumstances often beyond their control would be able to keep going, raise their children, and plan for the future. We put in a lot of Government programs to make sure we had a balance of power, a balance of power between capital and labor, between management and employees. And it worked very well.

The history of the economic prosperity of the American middle class in the 20th century is the greatest example of what can happen in a democracy where people's energies are freed so they can compete for themselves but within a framework of rules. I am very proud of the progress we made in the 20th century, and I am particularly proud of the last 8 years of the 20th century where 22 million people were lifted out of poverty, where we raised the minimum wage, where we said to people: You have to work, but if you work, we will make sure you and your children have a fair chance.

We have reversed that progress. It appears as though people are just sleepwalking through this Chamber and the Chamber on the other side of the Capitol. Don't we see what is happening before our very eyes? We are undermining the American dream. We are making it nearly impossible for people to believe that tomorrow will be better than today and yesterday.

These numbers speak for themselves. Look at this. The minimum wage no longer even lifts a family out of poverty. You can go to work 40 hours a week, you can clean the rooms and the toilets in a motel, you can serve the food in a restaurant, you can work in a small factory, you can make that minimum wage, and you cannot even get your family out of poverty. What kind of message does that send? The whole idea of America is if you work hard and you play by the rules, you will be successful, you will have a chance to do better.

Look at that chart. It speaks for itself. We have been on a steady slow decline. Even when we got a bipartisan agreement to raise it in 1997, we still did not get above the Federal poverty line.

What message are we sending to millions of hard-working Americans? I represent a lot of them. I represent

people who are working hard for a living. You see them on bicycles in Manhattan delivering food. You see them doing all the hard work, the janitorial services at night. In upstate New York, I see them as they get up every day and go to work and believe that they are doing what they should do. What message are we sending them? Too bad, keep working. Don't expect anything from us. We are too busy giving tax cuts to the wealthiest of Americans.

That is a choice that will be made by this Senate. As far as I can tell, it will be a choice to vote against the minimum wage and to vote instead for the second-degree amendment which is designed not only to defeat Senator Kennedy's amendment but to do even more harm to the paychecks of working Americans.

This is what I don't understand. The second-degree amendment denies more than 10 million workers the minimum wage, overtime, and equal pay rights by ending individual fair labor standards coverage and raising the threshold for which a business would be held accountable to 1 million from 500,000. In short, and let's make no mistake about this, the second-degree amendment would be the end of the 40-hour workweek. So we can go right back to the end of the 19th century because that is where we are heading. There are those, bless their hearts, who believe America was better off at the end of the 19th century, when you were told what to do, and you had to do it, and you did not have much of a choice about it. I don't agree with that. I am proud of the progress we made in the 20th century, but I am absolutely convinced some people are trying to head us right back there.

If it is the end of the 40-hour workweek and the end of the American weekend because there are no rules on overtime, that means a pay cut of $3,000 a year for the median-income earner and an $800 pay cut for those earning minimum wage. Now employees are already free to offer more flexible schedules under current law, but today if they come in and they tell an employee, ''Guess what, I need you this weekend, you are going to have to work'', they have to offer overtime when the work is more than 40 hours a week. The second-degree amendment would undermine that basic protection. So instead of making it easier for families to spend time together, we basically are going to tell workers that they have to do whatever they are told at risk of losing their job without any overtime pay or any other compensation.

The second-degree amendment also prohibits States from providing stronger wage protections than the Federal standard for employees such as waiters and waitresses who rely on tips. The amendment removes agency discretion and creates a safe haven for violators of a broad range of consumer, environmental, and labor protections by prohibiting Federal agencies from assessing civil fines for most first-time reporting violations and preempts States' abilities to enforce these laws.

In my State, we happen to think that some of those rules need to be enforced. James Madison said in the Federalist: If men were angels, there would be no need for a government. But we aren't, and we never will be, not on this Earth. The job of government is to help level that playing field, help right that balance. Otherwise, people are powerless to defend themselves, especially when they have to get up every day and go to work to keep body and soul together and food on the table, particularly if they are single parents trying to make do on minimum wage.

It is disheartening. We could have had an up-or-down vote on the minimum wage. If you want to vote against the minimum wage, vote against the minimum wage. But to introduce a second-degree amendment loaded with poison pills that are against workers, that are against fairness, that speaks louder than any words I could say in this Senate.

There will be a day of reckoning. We cannot continue to tilt the scales against the vast majority of Americans and not be held accountable in the political process. The mask has been ripped off of compassionate conservatism, and people see it for what it is—partisan politics to favor the rich. If that is what we are going to be fighting against in this Senate, I guess bring it on, because on that fight the vast majority of Americans, regardless of what party they claim, are on the same side. They want to make sure the deck is not stacked against them, that they have a fair chance to compete, and that their labor gets a fair return.

I hope our colleagues will rally in support of Senator KENNEDY's amendment and vote against the second-degree amendment. We should pass an increase in the minimum wage, and it should not come at the cost of denying basic rights to millions of Americans and turning the clock back to the 19th century, which is what it would do.

I yield the floor.

Mr. ENZI. I yield the Senator such time as he may consume.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Hampshire.

Mr. GREGG. Mr. President, as we speak in the Senate, sometimes we are caught up in hyperbole. I am certainly afraid that has been the case on the other side as they try to describe flextime. To say this is a return to the 19th century is a unique view of something which all Federal employees have the right to do today, which is to exercise flextime.

Why is flextime allowed for Federal employees? Because there are a lot of people who work in the Federal Government who would like to have the opportunity, if somebody in their family, for example, is getting married, to be able to restructure their workweek so that one week they will work more hours, and the next week, maybe the week their daughter or son is getting married, they work fewer hours so they can participate in the excitement of planning for that wedding.

There are a lot of people in the Federal Government who, when one of their family members, unfortunately, gets very sick and has to go in for an operation, want to be able to be with that loved one during that time of tremendous trauma. They want to be able to get to that hospital and not worry about not doing their job correctly at the same time. So they seek the opportunity of flextime, too.

Then there are other people who work for the Federal Government who have children who do exciting things. Maybe they are in plays. Maybe they are in bands. Maybe they are good athletes and in sports. Maybe they are not good athletes but sit on the bench, but they like to go to those games, they like to go to those plays, they like to go to those band recitals. Maybe they are a fair distance away, so they want to drive them, they want to take that extra Friday afternoon and take them out to that event because it is a big part of their life, a big part of their family, and they take advantage of flextime to do that so they do not undermine their ability to do their job.

Is that the 19th century way we deal with employees? What an outrage to make a statement like that. Maybe the Senator from New York has some unique view of the 19th century that says that when you give a family more time off to deal with family issues, that is counterproductive to having a strong family. Maybe we are not raising a village when we do that, but I sure think we are encouraging the strength of the family when we do that for our Federal employees.

What are we suggesting here? We are suggesting the employer and employee in the private sector have the right to reach the same agreement that the Federal employee has with the Federal Government; that over a 2-week period, an employer and an employee, only with the consent of the employee, only under a voluntary condition, without any mandate, and with significant safeguards so there cannot be any coercion, that employee and that employer, if they decide it is to the benefit of both of them to allow the employee to shift their workweek from a 40-hour week one week and a 40-hour workweek the next week to a 50- or 45-hour week one week and a 30- or 35-hour week the next week or something in between, they will have the right to do that. It does not undermine the 40-hour workweek. It encourages more productivity, and it gives people more opportunity to be home, in most instances, to participate in important events, some of them unasked for, some undesired such as health issues, and some very exciting such as weddings or children doing special things in school. Or it may simply be a young couple who wants to get away a little early some week in order

to enjoy the fact they are newly married. Or it could be any other multiple of personal events that might occur that causes somebody to say: I would like to work longer one week and less the next week so I can take advantage of that.

How can the other side of the aisle, in good conscience, and with a straight face, come to this floor and say that is some sort of coercive event, that is some sort of event that undermines the right of individuals and the labor force of America, especially when that right is given to all Federal employees and many State employees? The exaggeration is extraordinary. The hyperbole is excessive. The policy they are suggesting is 19th century. They are saying: You are going to work 40 hours this week, and you have to work 40 hours next week, and no matter how much you might not want to work under that structure, you cannot change because we know better than you know. I, the Senator from New York, know better what the employees' workweek in New Hampshire should be like. Or the Senator from New York knows better about the workweek than the people of New York.

Well, I happen to think that allowing people to develop some opportunities to structure their workweek so they can better care for their family, better assist their family's lifestyle, have a better quality of life—doing it all in the context of protecting the rights of the worker so they are not asked to work any more hours, doing it all in the context of a voluntary program, doing it all in the context of allowing the employee to make the decision, not the employer—I happen to think that is a pretty appropriate way to deal with somebody's work in relation to their lifestyle. I think that is a 21st century approach.

I think the other side's proposal is a 19th century approach. Or maybe that is too much hyperbole. Let me just say the other side's approach is misguided. I think our approach gives people the type of flexibility—that is why it is called flextime—in which most people would like to have the opportunity to participate. This is a good proposal.

It is especially good because it comes in the context of being the essence of the debate now. The Senator from Massachusetts has adjusted his amendment so the amount of increase in the minimum wage is essentially the same as the amount of the increase in Senator ENZI's bill. The issue of dollars relative to the wage increase is no longer a factor. That is no longer a factor. The only thing we are really debating about right now is giving small businesses some relief and allowing people flexibility in their workweek, which we give to all Federal employees, but for some reason the other side resists giving to people who do not work for the Federal Government and who are subject to the 40-hour work rules.

So I must say, with respect to the other side, I find it disingenuous for them to argue that it becomes a 19th century approach to say we would like people who are in the private sector to have the same rights as people in the Federal sector. People in the private sector should have the same rights as people in the State sectors. People in the private sector should have the right of their own volition, of their own initiative, protected by significant laws which avoid coercion, to choose to work longer one week and less the next week so they can do things such as participate in their family's lifestyle, whether it is a soccer game, a wedding, or whether it would be, unfortunately, some medical event, or anything else that is appropriate.

Mr. President, this amendment by the Senator from Wyoming is an excellent amendment, and in the context of the debate, it is especially excellent because, essentially, we are not fighting over increasing the minimum wage any longer in the two amendments. All we are fighting over is whether we are going to give small business a little more protection, a little more right to be productive and therefore create more jobs, whether we are going to give individuals the opportunity to have more flexibility and a better lifestyle.

Mr. President, I yield the floor and yield back the remainder of my time, to the extent I have any, to the Senator from Wyoming.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I have a question on time. How much time remains on either side?

The PRESIDING OFFICER. The minority has 24 minutes. The majority has 76 minutes.

Mr. KENNEDY. We have 24 minutes; is that correct?

The PRESIDING OFFICER. Twenty-four minutes.

Mr. KENNEDY. Mr. President, I yield 8 minutes to the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator.

Mr. DODD. Mr. President, may I ask unanimous consent that I be allowed to follow the Senator from Illinois? I ask unanimous consent that I can speak for 7 or 8 minutes following the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Massachusetts controls the time.

Mr. KENNEDY. Mr. President, I yield such time to the Senator from Connecticut as he has requested in his request, following the Senator from Illinois.

The PRESIDING OFFICER. The Senator will be so recognized.

The Senator from Illinois.

Mr. DURBIN. Mr. President, America will not soon forget the images of Hurricane Katrina, some of the poorest people in our country exposed to the worst natural disaster in current memory. We watched that television screen 24/7 and saw our fellow Americans struggling to survive, fighting the floodwaters, trying to keep their children and their families together.

America may not soon forget that image, but, sadly, many politicians in Washington have already forgotten. The poor people of New Orleans who suffered—as those who did in Mississippi and Alabama—those poor people were underwater long before Hurricane Katrina arrived. They were underwater because they were submerged by poverty. They were submerged by a health care system that denies them basic health care protection. And, yes, they were underwater because if they got up and went to work every single day, and worked 8 hours a day, the most they could hope for under Federal law is $5.15 an hour.

It has been 8 years since we have raised the minimum wage. Senator KENNEDY of Massachusetts has valiantly raised this issue every year, begging the President to come forward and stand up for those poor, vulnerable people in America. Today he asks for what is a modest increase in the Federal minimum wage: 55 cents an hour within 6 months of enactment, and another 55 cents an hour 1 year later.

Not a single family with this increased minimum wage will really get out from under the burden of poverty. We know it. Take a look at what families face today. Since 2001, the price of gasoline has gone up 74 percent. I think it is even higher. Health insurance, has gone up 59 percent, if you are lucky enough to have it. Housing has gone up 44 percent. College tuition has gone up 35 percent.

Yet when we come to the floor and ask for the most basic minimum wage increase for the hardest working people in this country, we are told by the Republican side of the aisle, no. No. They have forgotten the images of Hurricane Katrina. If they ever experienced them, they have forgotten what it is like to have a limited amount of money to try to feed and clothe and shelter a family. Mr. President, $5.15 an hour in the United States of America? Why in the world are we even debating this? For Senators to come to the floor and say: Well, we want to give employers more flexibility on overtime—do you know what that means? It means denying workers overtime pay.

Do you know what their proposal is? If your employer comes to you and says, ''Listen, the boss says you are going to work 50 hours this week and 30 hours next week,'' you put them together and it is 80 hours. No overtime. ''I hope you enjoy a little more time with your family.'' Really? Fifty hours this week, 10 hours of overtime but not an extra penny in overtime pay. That is the Republican proposal. Great ''flexibility.''

One of the Senators said that gives you more time to go to soccer matches with your kids. Well, assuming you can afford the gasoline for your car to get to that soccer match, you realize in your heart of hearts you are making less money than you would have made

trying to make ends meet and keep your family together.

Let me tell you something else that troubles me, too. How many people are standing up on the Senate floor and talking about what is happening to corporate profits while workers' wages are suffering? Corporate profits have gone up 105 percent, while basic workers' wages have gone up 3.2 percent. It just tells you that when it comes to providing some opportunity in this country, there is plenty of opportunity for those with the highest levels of income. We give them the tax breaks and ignore the working families struggling every single day to keep it together.

Senator ENZI of Wyoming is a good colleague. He and I have worked together on many good things, and I am happy to work with him in the future. I have to tell you, his amendment is a very bad idea. The Enzi amendment would deny to more than 10 million workers across America the minimum wage, overtime pay, and equal pay rights. And, sadly, it would be the death of the 40-hour workweek.

In the home I grew up in, we knew that the Good Lord gave us the Sabbath. We knew that organized labor gave us the weekend, understanding that families would work hard Monday through Friday, and they could spend time together on Saturday and Sunday. You will see the end of that weekend with the Enzi amendment. You will see workers plunged into extra hours of work without overtime pay, for a whole week, and fewer hours the following week, and no overtime benefits.

That really cuts the heart out of opportunities for families across America. We have to understand something very basic in this country. We are going to make some important decisions in the closing weeks of this session. Will we remember the vulnerable people who were the victims of Hurricane Katrina? Will we understand how many other families across America are underwater today because they do not have health insurance, they cannot afford gasoline? They are working 40 hours a week and cannot make ends meet. They are deep in credit card debt and cannot get out of it.

For once, wouldn't it be great if the Senate came together on a bipartisan basis to stand up for working families? The way to do that is to vote for the Kennedy amendment and to oppose the Enzi amendment.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me begin by thanking our colleague from Massachusetts for, once again, offering this amendment. As he has pointed out already, this is a pared-down version of what was offered before. It is hard to comprehend how anyone, let alone a family can make ends meet on $5.15 an hour. How do you pay for housing, food, clothes and other staples?

I have often said—and it has been repeated by others—the best social program ever created was not by an act of Congress. It was not created by a regulation or rule. The best social program ever created was a job. Think of all the benefits, the intangibles, that accrue as a result of having a good-paying job.

Here we are saying to people: Work hard and make only $5.15 per hour. You cannot even begin to provide for the basic needs of your own family.

What bothers me a great deal is how things have changed here in the Senate. In my 24 years in the Senate, I recall with great vividness the real discussions we had. I won't bore my colleagues going back to the Roosevelt administration, although it is not insignificant to talk about it. But just in more recent years, the minimum wage battles were not battles. They were resolved in a bipartisan way. My colleague from Massachusetts can tell you chapter and verse how it was done.

What has happened to us? What is wrong with this Congress, in these days, that we are incapable of raising the minimum wage to meet even the level of inflation for poor people in this country? Increasing the minimum wage was never a divisive battle. That was done by almost unanimous consent. We would work it out, come up with an amount that we could afford that made sense for people, and enact it.

These are familiar examples, as shown on this chart, going back to the Roosevelt administration, when the minimum wage was enacted, going through the Clinton administration, where we were actually able to get those kinds of agreements between Republicans and Democrats. And here we are now, for the last 5 years, still battling over whether we can get a modest increase in the minimum wage.

I am really stunned by it. This increase of $1.10, gets you to $6.25. It provides for some additional groceries and rent, 1 year of childcare. That would be an additional $2,288 if we adopted the Kennedy amendment.

There are so many examples that can be cited about what this means and what people are going through. The Senator from New York raised this earlier. Senator KENNEDY has, as well. This is that chart that shows where the minimum wage is. As shown here, this is the poverty line. The black line is the poverty line. We have been without these increases in the minimum wage. People are literally staggering at the bottom with a little more than $12,000 a year. Here is the poverty line.

How do you explain to people, good people, what we are doing in this Congress when we cannot even get this number up even close to the poverty line for people to make ends meet? What has happened? This never was a debate that caused great friction—to talk about making sure people out there working hard would be able to provide for their family. Now, we would turn around and say: You are not even going to get the kind of level of support that makes it possible to make ends meet.

I would hope that, No. 1, we would adopt this amendment. Let's get back to the days when we were able to come to agreement on something that would take people who are struggling and give them a chance to make ends meet.

I have one more chart that highlights the importance of all of this. Consider what is going to happen as heating oil prices go up by more than 30 percent. We are talking about the minimum wage actually going down in excess of 8 percent in terms of its ability to help people make ends meet. We have the Bush economic plan that is going to have rising energy costs with a declining minimum wage. What in the world do we think people are going to do? How are they going to make ends meet? How does that get done? What happened to compassionate conservatism? What happened to the days of the first Bush administration, and the Reagan administration as well, when we were able to come to agreement about the minimum wage?

Mr. KENNEDY. Will the Senator yield for a question?

Mr. DODD. I am happy to yield.

Mr. KENNEDY. The Senator very eloquently pointed out the fact that we haven't seen an increase in the minimum wage in 9 years. Inflation has eaten away from that $5.15 as costs and prices have gone up. Is the Senator aware of the increase in the minimum wage that has taken place, for example, in Great Britain? They have the second most successful economy in Europe; Ireland being No. 1. They were at $8.56 an hour. This year they have gone to $8.85 an hour. Next year, in October, they will likely go to $9.44 an hour. From 1999 to 2003, Great Britain has brought more than 1.8 million children out of poverty. That is what has happened in another economy that says that the increase in the minimum wage and providing at least a living wage for individuals is not adverse to the economy. It is important to an economy. And most importantly, it has been crucial to lifting children out of poverty and avoiding the kinds of circumstance that we have seen after Katrina.

Why is it that they can understand this and be so successful, and we, 9 years later, are still on the floor of the Senate for an hour and a half, and I bet we will still be unwilling to provide an increase of $1.10 for some of the hardest working Americans?

Mr. DODD. In response, the Senator makes a very good point. We have a tendency to think about raising the minimum wage as being a cost to society. What the Senator from Massachusetts is pointing out is quite the contrary. Raising the minimum wage is an overall benefit. In fact, the Senator is absolutely correct. In Great Britain, in fact, in no small measure because they have actually raised the minimum wage, the economy of that nation has improved. In the years since we have

not increased the minimum wage in this country, we have watched millions more of our fellow citizens fall into poverty. There is a direct correlation. We now have some 13 million children in America living in poverty. What is the 21st century going to offer if we are raising a generation of so many of our children living in poverty? Overall, 37 million Americans are living below the poverty level. In fact, more than 5 million Americans have fallen into poverty in the last 5 years. In Great Britain, as the Senator points out, as a result of increasing the minimum wage, people have actually been lifted out of poverty and the economy of their country has improved.

What the Senator from Massachusetts is offering today is substantially less than proposals he made earlier. This increase would be to $6.25, if we can get it approved. We ought to come together around this. What a great day it would be in America for the Senate, on a bipartisan basis, to support this modest increase in the minimum wage.

With all due respect to my good friend from Wyoming, his amendment is some 80 pages long. I suggest to my colleagues, in the hour you have left before we vote, that you read this amendment carefully. I think you will be stunned to discover the impact of this amendment.

I ask my friend from Massachusetts, on page 17 of the Enzi amendment, correct me if I am wrong, as I read line 7, subsection 5 of this amendment, it says:

> Notwithstanding any other provision of law, no State may impose a civil penalty on a small business concern, in the case of a first-time violation by the small business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.

That is a license, in my view, to go off and do anything, notwithstanding any other provision of law. It could wipe out all other Federal laws. Do my colleagues know which laws are being eliminated, notwithstanding any other provision of law? You could lie and cheat and steal. Am I reading this correctly?

Mr. KENNEDY. The Senator is correct. Effectively, what this does is preempt all 50 States from being able to enforce any of the Federal laws which they are mandated to enforce. I don't know where we get this idea. That could be on safe water, environmental, toxic substances. It could be on oilspills. It could be on any other matter. They preempt the States. Where is this idea coming from? Where did this idea come from? Preempt the States from any kind of enforcement, what in the world has that to do with an increase in the minimum wage?

Mr. DODD. Again, we are looking at an 80 page amendment. This is only one provision that I happened to read quickly. Do my colleagues know what they are voting for? It literally could wipe out all the Federal laws that a State would have to protect its people. That is ridiculous. With all due respect, this amendment ought to be defeated.

I know very little time remains. I urge my colleagues to consider this modest request to increase the minimum wage and reject the Enzi amendment. That amendment goes beyond raising the minimum wage and requires far more work than we can do in a 1-hour debate. Its implications may only be discovered weeks or months from now.

This ought to be rejected if for no other reason than I don't think we even know all that is in it.

I urge adoption of the Kennedy amendment and the rejection of the Enzi amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I yield myself such time as I need. I probably need quite a bit because the problem with debate on the floor of the Senate is that we don't listen to each other. I have said a lot of times that in committee, we are a much more informal group when we are marking up things. Consequently, if there is a misunderstanding or a disparity, we can get together and we can talk about it and we can find out how people were wrong.

I am disappointed that we haven't talked about this. A lot of these have been available before. But what the American people get to see is the 20 percent of the stuff that we will not agree on and, worse than that, probably 40 percent of the stuff that we don't want to listen to.

There have been some gross misstatements here. I want to start with just the last one, talking about allowing people to do whatever they want without a fine. That is such a gross misstatement that I am really disappointed in the opposition. I even heard the opposition say that that would allow people to have oilspills. I don't know how oilspills fall in the category of a first-time paperwork collection. That is all it applies to. If a small business makes a mistake sending data to the Government, just data, just a form—they miss a little bit on the form or they miss the deadline slightly and they immediately correct it and it doesn't hurt anybody—that is all that provision does.

If you are a small businessman out there trying to comply with the thousands of pages we have in a whole bunch of different areas, and you miss one paperwork deadline, you can be fined pretty severely. That is paperwork. That is not oilspills. That is not EPA. That is not any of the other things. It is data collection. That is what the amendment says, data collection. Read the whole amendment. If a small businessman misses a deadline or makes a mistake on paperwork and it is correctable and it is corrected immediately and it doesn't harm any employee, then they are not subject to the fine that time. That is a small concession to the small businessman, a very small concession.

On this whole bill, I am absolutely amazed. We are talking about the same $1.10 increase on the Democratic side that we are talking about in my amendment. There is no difference. Both of them provide for a $1.10 increase over the same period of time. We are not talking about which side is going to put people in poverty. Obviously, there is no listening from that side.

I have to be upset when it is claimed that apparently the minimum wage is the reason for Katrina. You can't go that far, folks. You can't. There isn't a connection between the minimum wage and Katrina happening. There isn't. Yes, there were people involved in that tragedy who were at the minimum wage, just as there are people under the minimum wage across the whole United States. But there isn't a connection with Katrina. It makes nice rhetoric. That is what we tend to do on the floor, make rhetoric. We ought to be making policy. What I have here is good policy for small business.

I also heard some statements about how all the small businessmen are wealthy, and they do that on the backs of employees. First, they are not all wealthy. Secondly, the implication that they are unethical to get that money is also not correct. There are small businesses out there that wind up paying their employees more than they get, even if the employee is on the minimum wage. There is no guarantee for the small business owner. We have to remember that.

I was surprised that the other side didn't say: Here is the chance to get the minimum wage increase and to help small business, not to harm employees. There is nothing in here that harms employees.

Part of the rhetoric was, we are taking away the 40-hour workweek. No, we are not. We are matching Federal employees' benefits to private employee benefits. That is it. What the Federal employees are allowed to do, we say that all employees ought to be able to do. How is that taking away overtime? Because it doesn't take away overtime from the Federal employees, so it also wouldn't take away overtime from the private employees. There is a provision in this amendment that says there cannot be coercion. They talk about forcing people to work on the weekend. That provision says that it has to be in an agreement between the employer and the employee. It truly is designed to be able to get them in a position where, without losing any money, they can have some extra time at the time that they want to have it.

I mentioned before—obviously, nobody was listening—that where this comes up the most is where there are Federal employees married to private employees. The Federal employee gets this special break where he or she can rearrange their schedule so that they

work a little more one week and then they can get time off the next week without any penalty. But the spouse who works in the same town but for a private employer is told by Federal law: You can't have that benefit.

That is wrong. Why can't we, after two decades of seeing that it works for the Federal Government, believe that it might work for private business? If it doesn't work, I would be one of the first ones to move to get it out of there, but it is going to work. There is no indication it would not work.

I think if we sat down and talked about these proposals, there would be some agreement on both sides of the aisle. It has become one of those rhetoric things where we can appeal to the base by blasting the Republicans for having any kind of a proposal, such as this, that would help small businessmen.

There are a lot of statements I ought to correct. One of them is 2 pages versus 85 pages. Clearly, 85 pages versus 2 pages, but that is like me trying to imply they have a Federal Tax Code idea and it is just send your money to the Federal Government. That would not be true. That is what they are saying when they say 2 pages versus 85 pages.

I have additional pages because of the provisions I have talked with the Democrats about and tried to nail down in a very clarified way so there could not be those objections. It is a few pages to do six different things for small business. That is not a lot. Small business is the one that takes the bump on this proposal. I am trying to smooth out the bump, not at the cost of the employee, but as a little bit of help to an employer. And it is offset. It is paid for. We are not driving up the deficit by doing any of these things, but we are providing a way for them to stay in business and provide an increased minimum wage for their employees.

I heard a comment that there were no net new jobs in the private sector in the last 4½ years. Overall, it could be a true statement. I don't know; I have not checked it. But I do know that in the small business sector, there have been some huge net job increases.

Unemployment in the United States is about the same as it was. There has been an increase in population. Those people have been employed. Where have they been employed? In small businesses. We know that big business lost employees. They keep downsizing. They call it rightsizing; I call it losing jobs. But the small business sector has picked up those jobs.

There are people out there generating ideas willing to take risk. Anybody out there who thinks if you have a small business all you do is open the doors and make a lot of money is wrong. Talk to the small businessmen in your community. See how many of them in the middle of the night sit straight up in bed and say: How do I meet payroll tomorrow? But they do, and they solve it, and one of the ways they usually do that is they don't pay themselves. Later, when they make some more money, they may make up for what they lost in that period of time. But talk about no flexibility, they do not have any flexibility; they have to pay their employees. A lot of people who go into business find out it is not the cakewalk they thought it would be.

When I was a small businessman we used to employ some extra people during the slow time so we would have them during the time when we needed them, during the back-to-school rush and the Christmas rush. We were always a little bit disappointed after we paid them through the slow times, when we were not making the money, to then have them leave at the busy times or be sick at the busy times. We understand sick. People get sick. Sometimes as an owner we were sick, but that did not mean we could not come to work because we had to keep the business running.

Small business is different than big business. It runs on fewer people. That is why we call it small business. The small business people have to compensate different ways for themselves, meaning if they are short an employee, the trip they were going to take, the meeting they were going to go to, which could be to buy products for the store, is canceled because somebody has to be there to run the store to provide the customer service. That is how small business works.

I can tell you, too, when you have a small business, the employees are more like family, and so they have insight into more of what is happening in the company than they would in a big company. In a big company, if they know about their own department, it is probably a big deal. In a small company, they know about the whole business. They probably do things in the whole business and they know how tentative the whole business is.

Talk to some of the small businessmen in your own community. Find out what kind of a ''wealthy'' life they live. You will find out most of what they earn they have to put back into the business to keep it growing.

Another significant part of what they earn they have to pay in taxes because the tax structure is set up so that most of what they make looks as though it is personal wage, and that puts them in a very high tax bracket and they wind up paying that out.

Being in small business is not a cakewalk. When the Federal Government forces on them any new regulation, that causes problems.

I also heard a statement that the minimum wage increase only applied to one-tenth of 1 percent of the national payroll. That is another myth I need to address, because, again, having been in business, I know that when the minimum wage rises, it raises all wages. If you have somebody else who is in a tier above the minimum wage, and you raise the minimum wage, you eliminate part of the tier. Nobody can do that in small business because everybody knows what everybody makes. So you raise that one and then you raise the one above that, and then you raise the one above that.

We are not talking about an impact on one-tenth of 1 percent of the national payroll. We are not just talking about those people at the bottom of the ladder; we are talking about most of the people in the United States.

I would like to give all of the people in the United States a pay raise. The problem with giving everybody a pay raise is that it has to be paid for. Somebody has to pay that bill. It is not like the Federal Government. The employer out there, particularly the small businessman—well, even the big businessman—cannot print their own money, so they cannot run deficits very long or they are out of business.

How will businesses go about paying for a raise in the minimum wage? Let's see, you can do it by having less people; but, that is people losing jobs, and I don't know of a single small businessman out there who likes to get rid of people. They feel for these people who work for them. They know these people who work for them. And when they lay them off, they see the hurt in their eyes. In small businesses, it is the little guy who has to look them in the eye and say: I have to have one less employee because I am paying others more. In some businesses, when there is a tight spot and the boss goes to them and says: ''Look, I have this problem, I am not going to be able to make wages so I am going to have to let somebody go'', the people in the business will often say: ''In the short term, we will take a little less because we understand the problem; we don't want you to be forced to lay off anybody.''

That is not the option when the higher wage is mandated, there is no slack to get through a particularly hard time, even if it is a short one. We are talking about the prospect of people losing jobs. That is, unfortunately, one way mandated, increased wages can be paid for. For every businessman I know this would be the least preferable way to meet increased cost, but it is certainly one of the possibilities.

Another possibility is that they can raise their prices. This almost certainly will happen. Essentially, if we raise most of the wages in the country, we are also going to raise most of the prices in the country just to cover the increase in the wage. If what I buy increases in cost, did I get a raise? Not really. So we can create these phony, feel-good pay increases, but if they do not increase buying power, they do not do anything.

What is another way that increases in the minimum wage can be for ? I certainly don't like either of the two options I just noted. Another way to pay for wage increases is to have more productivity. We had one chart that

showed that productivity has gone up. Some of those productivity gains have arisen partly because we have mechanized more. Unfortunately such productivity gains do not employ more people. It switches the way products are made and drives up productivity per person. But increases in productivity will help keep people around at higher wages.

The employees who are out there and are being creative and are looking at their job and saying: ''There has to be a better way of doing this'', and are coming up with improved ways of doing business usually get rewarded. They get more money.

I remember when I was going to college, I was taking a course in Fortran. One of my friends worked at the May D & F Company. He did some inventory work for them. This is in the old days when you had to write your program out by hand and then take it to a card punch operator. They punched the cards for you, and then you would go over the huge mainframe, and run cards through that. When you got them back, you had a bug list and you could rewrite lines so it would work. And the next day you get cards punched again. Eventually you get through the bugs and get this little simple thing done that today a child on a home computer could probably do in about, oh, 20 minutes. But we were amazed at the capacity, the productivity that this provided.

One of my fellow students figured out in doing inventory, that instead of the 40-hour week he was putting in to accomplish the work, that he could write a program, run it through the university computer on class time, and do the same amount of work in 1 hour. Now here is where I was pleased with the company he worked for. They let him do that and they paid him for 40 hours. He was thrilled. He is now a programmer.

What he did was increase his skill level and get paid more for it. That is what we are talking about here. There are a lot of people who start at minimum wage jobs. If they pay attention to the job, I bet they are not at the minimum wage, for most of them, for more than a month, and then they get promoted. They get a pay raise, a real pay raise because they did not force the price up, they increased their productivity.

I mentioned this morning that there is a fellow in Cheyenne, WY, who owns eight McDonald's. Some people try to suggest that working in food service is a bad job, and we kind of run them down. We should never run down any job that people do with their hands.

If you are like that small businessman—and I contend most small businessmen are that way—not trying to take advantage of their employees, but trying to help their employees, these employees can go through a program and get not only a lot of increases in position, but they can actually own a McDonald's—that's right, own it. The McDonald's owner I referred to this morning has had three employees who started at minimum wage and who today own 20 McDonald's. That is the achievement of the American dream.

They did not achieve what they did because of the minimum wage. They achieved this success and advancement because they increased their skill level. That is the key. We have programs that help people increase their skill level. I would be willing to bet that the Federal programs to increase skill level are minimal compared to the business efforts to increase the skill level of their employees. That is how employers increase and improve their business. They help their employees. They do not beat up on their employees. They help their employees.

The smaller the business, I am willing to bet, the more they help their employees. That is what we are talking about here—helping the employees, helping them get higher skill levels.

We do have a Federal program—and I am hoping we can get it through the Senate by unanimous consent or even with some limited debate, whatever it takes and whatever will fit in this packed schedule between now and Thanksgiving . There is some important legislation we need to do. One of them is passing the Workforce Investment Act.

The Workforce Investment Act will provide for about 900,000 people a year—a year—to be trained in higher skilled jobs.

That can be people who are unemployed or people who are employed but trained to higher skilled jobs. I also would like to put in a little plug for Wyoming at this point. We are short of people. We are the least populated State in the Nation. Previously, one of the reasons has been we did not have jobs. Now we have jobs. We do not have people to operate them. So we have started some special training programs in my state so people can work in some of the mines. One might say, Oh, I do not want to be in a mine. Mines are dirty and unsafe places. I want everyone to take a look at the record because there are rules with which they have to comply.

I once had a fellow from Japan, who worked for a newspaper, who was fascinated that I did not do national media, I guess, and he wondered if he could follow me for a day. I said he could follow me for a day if he came to Wyoming and followed me for a day. His paper let him do that. I also invited him to visit a mine.

He came, and we did one of our normal weekend things my wife and I do in Wyoming. We go back to Wyoming most weekends and we travel a different part of Wyoming. We hit all the towns, no matter what size. On that particular trip, we went to Wright, WY, Midwest, Edgerton, Kaycee, and Buffalo, and we held town meetings. I met with schoolkids and businessmen in those places.

I remember the first town that we were in. I think I got to talk to 115 kids at the school. I talked to about 30 businessmen. I had about 40 people show up for a town meeting.

He said: You do not get to meet with many people.

I said: Take a look at the little brochure I gave you that outlined where we were going today and what the populations were.

He said: My goodness, you got to talk to 90 percent of the people.

I said: What size building would that take in Tokyo?

One advantage of being in Wyoming is we get to talk to most of the citizens.

The next day, I did not go with him, but he went to one of our coal mines. We have 14 coal mines in Campbell County. I hope people will come out and take a look at them. If you are using electricity, there is a good chance that you are using electricity from the coal mined in Campbell County, WY. It supplies a third of the coal in the Nation because it is considered clean coal. It does not have a lot of the chemicals in it. We send some to West Virginia. We send some to Kentucky. We send it to most States. In those States, they mix it with their coal, and they meet the clean air standards. That is one of the reasons we mine so much coal.

He went through the mine, took a look at it, and looked at their safety record. I was very pleased when I saw what he had written, which was that he believed Wyoming had participatory democracy. Most States cannot do that because of the bigger populations. On the coal mining, he said he expected it to be dirty and unsafe. He found that it was clean and safe.

Now, here is the real telling part of this story. The next year, he brought his family to Wyoming. In Wyoming, we have Yellowstone Park, the Grand Tetons National Park. We have the first national forest. We have the first national monument, Devil's Tower. He brought his family to see the little towns he had visited and how far apart they were. He brought them to a coal mine because he was impressed.

So come out and work in our coal mines. You can make $50,000 $60,000, $70,000, $80,000 a year.

For women, that would probably be a nontraditional job, but there are a lot of women working in the mines. One of the reasons they can is because it is all huge heavy equipment that has all kinds of things on it that are ergonomic and that make it easy to operate. A woman can drive a coal truck that I guess two of these trucks might fit in this chamber, but I doubt it. The wheels on those things are about 18 feet tall, which means they are 18 feet in diameter. It might fit in the room this way. It is huge equipment. One would be fascinated to see it. Women drive those, and they make the same wage as men. Of course, that is a Federal law, and it ought to be. That helps to get rid of some of those disparities we have between what women make

and men make. Sometimes it is taking nontraditional jobs like that. These are good-paying jobs.

They used to be able to put out an application and then select from those people who had experience on that kind of heavy equipment. They could select the best operator for that piece of equipment. The world is changing. There are fewer people out there to take those jobs, so they now will train someone to run this heavy equipment with no experience.

There is one little catch for some people, and that is that they have to have a clean drug record. They have to be able to pass a drug test because they do not want people running over somebody with this huge piece of equipment.

We have some of those mines that have gone 2, 3, 4 years without a lost-time accident. No lost-time accident, let alone a death. How safe is that? Safer than most of the businesses in the United States.

Like I say, this equipment is designed so that it is easy to operate, it is air-conditioned. The person is inside the whole day. And they are having trouble getting employees at $50,000, $60,000, $70,000, $80,000 a year.

We have a special training center in Casper, WY, for people who want to work in the oil industry. They will take completely untrained people and train them to work in the oil fields and have 100 percent placement on the people who graduate from there. Again, the only catch is a clean drug record, they must be able to pass a drug test. It is a good living.

I am making the point that skills are important. If one does not have the skills, there are ways to get the skills.

The only people who are poor are the people who do not have hope. Now, that is a quote from ''The World Is Flat'' by Thomas Friedman. The only people who are poor are the people who do not have hope. In the United States, everyone should have hope. Everyone should be able to find some way to increase their skill level and get a better job.

When I make those trips around Wyoming, I go to a lot of schools. I talk to a lot of kids. They are making choices down in first and second grade about what is going to happen to their employment capability. I am very pleased with the Wyoming kids. I believe they do an outstanding job. I have had an opportunity to work with some of the kids in the District. The first year I was here, the school board learned when the first day of school opened that the roofs leaked. I do not think that was a good time for the school board to figure that out, but that is what happened. They decided that since the high school students did not have anyplace to go to school, that maybe we could take them as interns on the Hill.

I agreed to take some. The first young lady I talked to, I said: What do you want to be? She said: I want to be a doctor. I was pleased. This is a ninth grader. She has her goal set on being a doctor. I found out later that day that she could not read. Now, what does one think the chances are of a ninth grader ever being a doctor if they can't read? It is not going to happen probably. Well, instead of her working in my office, I sent her to a literacy class. When we finished the internship, I offered to pay her to go to the literacy class. She never showed up. So I am pretty sure she is not a doctor anywhere.

Kids are making choices about what they can do with the decisions they make. I am hoping they make good decisions. I am hoping they get into science and math and work those skills through and make some good decisions as they get into high school to learn where their talents lie.

I have had a person on my staff ever since I got here. Her name is Katherine McGuire. She used to be my legislative director. Now she directs a committee I am on. Her college degree was in agriculture. Her parents did not have a ranch, so I was not sure about that. Then she went on to get a master's degree in agricultural economics. I asked her how that happened. She said: I got some really good advice when I was early in high school from a teacher who said, Every one of you kids ought to have something you can do with your hands because you can always fall back on that. She took that advice. She looked at the agricultural field. She got a degree in that, and then she got an agricultural economics degree. She still has that fallback position. It is important for kids in the country to be thinking about things like that.

There is not any job in the United States that is not needed. Some of the ones that are hands-on are going to be the most needed. The way the economy should work, those should be some of the highest paid.

I am reminded of a fellow who came to solve a little problem in a house where they were having a pipe leak. He climbed under the sink and worked for about 5 minutes and had it fixed.

When he got ready to leave, he said: That will be $75.

The owner of the home said: Seventy-five dollars? You only worked on that for 5 minutes.

He said: Actually, for my time, I only charged you a nickel. The rest of that is for the knowledge I had of how to change that pipe.

So knowledge is worth something. Skills are worth something. Skills are the way one gets higher wages. We can impose any kind of a minimum wage, and what we do is drive up wages so that there has to be more money to cover that wage, which will probably come from higher prices, which wipe out the benefit of the wage.

Another argument that has been made, which I will refute, is that this amendment is taking away overtime. There is no overtime taken away in this. We have flextime in it. Again, I want to repeat, that is the same benefit the Federal Government employees get, and we are just extending exactly the same thing to private employees. If there is anybody in this place who thinks we are taking away from overtime, we should not have given the Federal employees that disadvantage. Of course it is not a disadvantage. They do not get overtime taken away from them. They get to rearrange their schedule so that it helps them in times they want to take off.

It does have to be done in conjunction with the employer. The employee and the employer have to agree. Right now, even if the employee and the employer agree, in the private sector, it is illegal. In the public sector, it is fine. So why would we object to extending to those small businessmen and particularly the people who work for them the same opportunity a Federal employee has?

That covers a few of the misconceptions that I think we got from listening to the last hour and a half of rhetoric about this issue. I am kind of surprised that they have not adopted this amendment and taken credit with the small business community for helping out small businesses while they get the $1.10 increase in minimum wage that both of us are talking about. Both bills have the $1.10, the same amount of raise, the same time period. So all we are talking about is whether, in addition to giving small businesses help, we also help the small businesses to be able to afford it, be able to put some cushion in there so they can pay this increase in the minimum wage and the increase that will go to all of their other employees because one does not just raise the bottom wage; it forces the next tier up to get a raise and the tier above that to get a raise. So virtually everybody is getting a raise. I know I always had to do that when I was in business. I do not know of any other employer who is not faced with the same situation. So we are not just talking about that minimum wage earner, we are talking about many more people.

Let me run through the six basic things we are providing. The first one is updating the small business exemption. Small business generates 70 percent of new jobs. Right now, the small business exemption covers businesses that gross less than half a million dollars. When was that law put into effect? It was in 1960. There has been no update or change since that time. Has there been any inflation during that amount of time? I think so. In fact, if we were doing the adjustment according to wages, that would be over $1.5 million—not half a million but $1.5 million. So what did I do? I compromised on that one. I should have gone for the whole $1.5 million. If I hadn't thought the other side of the aisle was going to be upset over adjusting to inflation, I would have gone the whole $1.5 million, but I did not. I tried to be reasonable on this one. I went in between the two. Like I say, it has

been awhile since we readjusted that threshold and the economy has undergone some dramatic shifts and the way work has been done in this country has changed forever.

My amendment also incorporates some bipartisan technical corrections that were originally proposed in 1990 by the then Small Business Committee chairman. This is very important. The Senate at that time had a majority of Democrats, so the Small Business Committee chairman was a Democrat. That chairman was Dale Bumpers, who was in the Senate when I got here.

The same thing was cosponsored over the years by Senator REID of Nevada, Senator HARKIN of Iowa, Senator PRYOR of Arkansas, Senator MIKULSKI of Maryland, Senator BAUCUS of Montana, and Senator KOHL of Wisconsin.

There were many others, too. All that I named were the Democrats who thought that these technical corrections could be useful to small business. So I hope those Senators who are still here would vote for that.

As those Senators can attest, the Department of Labor disregarded the will of Congress and interpreted the existing small business threshold to have little or no meaning. The Department is misreading the clear language of the statute. This amendment corrects the problem by stating clearly that the wage and overtime provisions of the Fair Labor Standards Act apply to employees working for enterprises engaged in commerce or engaged in production of goods for commerce.

My amendment also applies these wage-and-hour worker safeguards to homework situations. That is very important.

The second thing it does is ensure procedural fairness for small business. That is just commonsense, good Government legislation. Surely, we can all agree that small business owners, the individuals who do the most to drive the economy forward, deserve a break the first time they make an honest paperwork mistake; a first-time, honest, paperwork mistake, where no one is hurt and the mistake is corrected. That is very limited.

The paperwork small businesses face is certainly not limited. Paperwork is practically unlimited for a small businessman. But this amendment is very limited. Small business owners have told me over and over again how hard they try to comply with all the rules and regulations imposed on them, mostly by the Federal Government. As a former owner of a small business, I know what they mean. Because I did accounting for small businesses, I know what they mean. I filled out a lot of that paperwork. I want you to know I got it right. I didn't have any first-time violations. But that is because I was supposed to know about the kind of paperwork that I was doing, and I was being paid for taking care of that. It is one way a small businessman can have a specialist—they can hire an accountant to do some of the paperwork for them. But for the most part, they do their own paperwork.

Yet for all that work, a Government inspector can fine a small business owner for paperwork violations alone, even if the business has a completely spotless record and the employer immediately corrects the unintentional mistake. Even the best intentioned employer can get caught in the myriad of burdensome paperwork requirements imposed on them by the Federal Government. The owners of small businesses are not asking to be excused from any obligations or regulations—although they would probably like for us to do that, and it wouldn't hurt for us to have a commission that would review all those things and see if anybody actually uses the paperwork that is required.

One of the forms I used to get to work on was an annual OSHA report. Annually, they had to fill out a form that showed what accidents had occurred—lost-time accidents—and they had to post that in the break room and they had to file it with the Federal Government.

Any time you have an accident or a near miss, it is good to sit down and talk to your employees about it, have them sit down and figure out how it could have been avoided. That will save accidents and lives. It isn't the paperwork that saves the accidents and lives, it is actually talking about it, timely talking about it, not a report that is filled out at the end of the year and stuck up on the bulletin board where people may or may not read it.

Incidentally, I hope everybody will take a look at that form because it is not that readable. It is not that useful. It could be a lot more useful. It actually could help prevent accidents. It doesn't.

It gets sent to the Federal Government. What do you think happens to that form? Nothing useful. There could be a good use for it. We actually could compile that and find out, in the different industries, what sorts of things were happening and share that with those industries. We do not do that. That is a wasted piece of paper. But if you do not send it the first year you are in business and you have been working like crazy to meet payroll and January 31 comes around and it is about the third of February and somebody says, Did you send in that OSHA report? Actually, I think that one goes the end of February, so it is the 1st or 2nd of March. They say, Did you send that in?

Oh, no, I didn't.

He can be fined for that, even though on the 4th of March he fills out the paperwork, posts it in the break room and sends it in and has, during this whole year, been recording all of the accidents in a readable form, talking to his employees about it, and solving the problem.

Why should he be fined for that? Nobody is going to use it. But that is the kind of paperwork violations we are talking about. Remember, it is a Government inspector fining a small business owner for paperwork violations alone—paperwork violations alone, not the oilspills that you heard about earlier. That would not be a paperwork violation. That would be a most definite violation, outside of paperwork. So they have to have a paperwork violation alone and the business has to have a completely spotless record and the employer has to immediately correct the unintentional mistake.

Surely we ought to be able to give small business owners who are trying their best a break on mistakes that don't hurt anyone. Even the best intentioned employer can get caught in that myriad of paperwork requirements.

They are not asking to be excused. What they are asking for is a break, if they have previously complied, they didn't hurt anybody, have a completely spotless record, and they correct for the unintentional mistake.

One small businessman who I had testify before my committee a few years ago when I was working on some of the OSHA things and I was a subcommittee chairman of the Workforce Safety and Training Subcommittee of this same committee, he told Congress:

> No matter how hard you try to make your business safe for your employees, customers, neighbors and family members, in the end, if a Government inspector wants you they can get you. The Government cannot tell me that they care more for my family's safety and my company's reputation than I do.

Small businessmen and women who are the first-time violators of paperwork regulations that don't hurt anyone deserve a break.

Let's talk about providing some regulatory relief for small business. You can see these are not costly things I am talking about here. They should not be controversial. They are pretty common sense. I think we could sit down and draft a bill and probably agree on a lot of this still if we had not polarized ourselves on the floor of the Senate first. It is one of the worst things we do, polarize things instead of work them out. If we try to work them out, we can probably come to agreement on 80 percent of the issues. That is usually what we can do when we work things out together.

The third thing my amendment would do is provide regulatory relief for small businesses. Any increase in the minimum wage places burdens on small employers. It is only fair that we simultaneously address the ongoing problem of agencies not fully complying with the congressional directive that is contained within the Small Business Regulatory Enforcement Fairness Act. Under the law, agencies are required to publish Small Entity Compliance Guides for those rules that require a regulatory flexibility analysis. Unfortunately, agencies have either ignored this requirement or, when they try to comply, they have not done so fully or carefully. My amendment addresses this lapse by including specific revisions that the Government

Accountability Office has suggested to improve the clarity of the Compliance Guides.

The Government Accountability Office suggested that we should clarify the requirements; not change them, clarify them. It would force the Federal agencies to take into consideration the ways that they are harming small business by placing non-commonsense, confusing rules and regulations on them. It is a chance for the small businessman to say: If you impose that, I don't see where it goes anywhere. I don't see where it does anything. Why would you impose that on me?

It is an opportunity for small businesses to respond when the Federal Government is about to change the way they do their business. And it is a law that we passed. Congress said: You have to do this. You cannot affect small businesses without listening to them.

I ought to rephrase that. You can't affect small business unless you present them an opportunity to speak. There is no requirement that the Federal Government listen. No matter what the small businessman says, the agency that is affecting small business does not have to listen. They have to accept the comments. But, currently, that law is not clear enough that they even accept the comments.

I have seen some documents that small business people have sent in to the Federal Government about a problem with a law or regulation that they were trying to comply with. The response they got was, ''No response necessary.''

I have no idea why ''no response necessary'' is a response. That doesn't answer the question. Of course one of our problems is one-size-fits-all Government. We think we can sit in Washington and figure out a rule that will apply to the whole country and to every kind of a business out there and every kind of a job that is out there. That is egotism at its highest, I think. The businesses that are out there have constructive comments to offer about ways to do things better. But you know what? We don't let them contribute.

We vote on a lot of legislation that affects small businesses, and it is only right that they have some opportunity to express their thoughts on how that is going to affect them and in many cases to suggest a better idea.

One of the reasons I go back to Wyoming most weekends is so that I can go around and talk to those people who are doing real jobs. Often, when I talk to them, they say: ''I have got this little Federal requirement that I have to meet and I don't understand it.'' Often, I don't understand it either. But what I like to say is: ''What do you think we ought to do about that?'' By golly, you wouldn't believe some of the commonsense, simple things they suggest that would achieve the same Federal principle in a less complicated, straightforward way. Often, the problem arises because we don't talk about the issue with the people who are actually doing the work out there. There are a lot of people out there doing a good job, working hard, and trying to figure out what in the heck it is we did in Washington. This is one small place where they are supposed to have input. We said: ''You are supposed to get input.'' Actually, I would like for them to say not only that you get input, but that the Federal Government has to listen as well. That should be the goal.

Let me move on to another one of the six small things that my amendment calls for.

My amendment seeks removal of the barriers to flexible time arrangements in the workplace. I have covered this a couple of times. I need to cover it a couple more times because obviously the other side of the aisle doesn't understand what I am talking about yet. I will try it yet a different way.

What we are talking about is legislation that could have a monumental impact on the lives of thousands of working men and women and families in America. The legislation would give employees greater flexibility in meeting and balancing the demands of working families. The demand for family time is evident. Let me share with you some of the latest statistics: Seventy percent of employees do not think there is a healthy balance between their work and their personal life. Seventy percent of employees say the family is their most important priority. The family time provision in my amendment addresses these concerns head on. It gives the employee the option of flexing their schedules over a 2-week period. In other words, employees would have 10 flexible hours they could work in 1 week in order to take 10 hours off in the next week.

Flexible work arrangements have long been available for employees of the Federal Government. Government employees have been able to do this for two decades, and no one has said: ''You took away the overtime right of Federal employees''.

The flex time program was so successful that in 1994 President Clinton issued an Executive Order extending it to the parts of the Federal Government that had not yet had the benefit for the program. That wasn't a Republican idea then. It might have been in the beginning. But none of these things matter whether they are Republican ideas or Democratic ideas.

It was a Democratic President who extended that benefit to all of the Federal Government and said:

> Broad use of the flexible arrangement enables Federal employees to better balance their work and family responsibilities and increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

That sounds pretty good to me. However, while employees in the Federal Government have these rights, employees working for a small company in Wyoming don't have the same rights. They may be married to somebody in the Federal Government who has these rights and can rearrange their schedule to do things. But the spouse in the private sector and the employer in the private sector are not allowed to make a similar arrangement. That shouldn't ever happen in America. For years, Federal government employees have had these rights—rights that were extended by a Democrat President of the United States who noted: These arrangements work, reduce turnover, and reduce absenteeism. How can you provide these rights to Federal employees and not allow other people the very same right?

I have heard some arguments that with flexible time arrangements employees in the private sector would be forced to do things such as work on a weekend. That is not correct. The bill specifically prohibits any coercion in making these flex time agreements. It has to be a mutual agreement between the employee and the employer.

Unlike the Federal Government, there are businesses out there that do work on weekends. There are people out there who would like to be able to shift their schedule one week to the next without losing their pay, without having to take a day off, and they are willing to do that by working a little bit more in one week and a little less in the next week and having the funds they anticipated, similar to Federal employees.

I don't understand how we can say that is wrong.

I couldn't agree more with former President Clinton. I did not agree with him a lot, but that is one of the things he had right. Now we need to go further and extend this privilege to the private sector workers.

We know this legislation is not a total solution. We know there are many other provisions under this 65-year-old Fair Labor Standards Act that need our attention. But the flexible time provision is an important part of the solution. It gives employees a choice, the same choice as Federal workers. If we are going to keep that from applying to the private sector, maybe we ought to take that away from the Federal employees so they can get their full rights.

Does anyone on the other side of the aisle really want to do that? Do you want to see a revolution? It is the kind of revolution that small business employees may soon provide as well, as they become aware that they have been denied this benefit.

Mr. President, what is the remaining time?

The PRESIDING OFFICER (Mr. COBURN). The Senator from Wyoming has 18 minutes; the Senator from Massachusetts has 6 minutes.

Mr. ENZI. Thank you. I still have two provisions that I need to run through, and I wanted to make sure I got underway on that before my time expires.

The fifth provision in my amendment is extending the restaurant employee

tip credit. The food service industry relies on what is called a tip credit, which allows an employer to apply a portion of an employee's tip income—income they are getting on the job—against the employer's obligation to pay the minimum wage.

To protect the tipped employees, current law requires that a tip credit cannot reduce an employee's wages below the required minimum wage. Employees report tips to the employer because the employer has to report it. Tips that are earned are reported.

We have a few States that do not allow a tip credit. Increases in the Federal minimum wage would require raises for all affected employees in all States. Lack of a tip credit in some States could result in employers having to give raises to what are often are their most highly compensated employees—the tipped staff. As a result the nontipped employees are negatively impacted by the mandated flow of scarce labor dollars to the tip positions. In addition, the employers in these States are put at a competitive disadvantage with their colleagues and the rest of the country that can allocate employee compensation in a more equitable manner.

I must also note that my amendment clarifies that the tip credit provision does not apply all parts of a State wage law. That argument that was used the last time the tip credit was brought up. That is clarified in this amendment. That should not be an argument anymore. The tip credit provision applies only in States that do not have a tip credit; and, only to the minimum wage portion of that State's overall wage hour law.

The sixth and final provision in my amendment is one which provides small business tax relief. As I noted before, some of the people who pay the most taxes in the United States are small business owners. Even the money that business owners put back into the business to reinvest has to have the taxes paid on it. That is at the highest tax rate in the country. If we are going to impose even greater burdens on small businesses, we should give them some tax relief at the same time.

My amendment would extend small business expensing. It would simplify cash accounting methods that make it a little easier for them to do their accounting, and it would provide restaurant depreciation relief.

All of these tax provisions are fully offset. In total, the additional provisions of my amendment are intended to mitigate the small business impact of a $1.10 increase in the minimum wage.

These steps are a partial way in which the cost of a minimum wage increase can be addressed. They will help the businesses that must absorb these increased costs. I share the view of many of my colleagues regarding such an increase on the Federal level. We must do our best to soften the blow. This may be the best means to that end.

I would also encourage all of my colleagues to look at the true root of the problem of minimum wage workers, and that is minimum skills. We all share the same goal—I don't think anybody can deny that—and that is to help American workers find and keep well-paying jobs. I am even going beyond that. I hope they get to own their own businesses. We must, however, realize that minimum skills—not minimum wages—is the problem. Education and training will solve that problem and lead to the kind of increased wages and better jobs we all want to create for the Nation's workers.

Let us work together to get that Workforce Investment Act passed, and go to conference. We didn't get that done 2 years ago. Without the conference, those 900,000 people a year that could be getting paid a higher amount are not. We need to get it passed and get it conferenced. We need to get the President to sign it, and as a result, higher skills and training will be accelerated, and wages in this country will go up.

I urge my colleagues to oppose the amendment offered by Senator KENNEDY and support my amendment that raises the wage by the same amount, but then has additional provisions, that provides small business benefits and soften the impact of the increases on the businesses that will have to pay them. If you are interested in small business, you need to support my amendment.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand we have 8 minutes.

The PRESIDING OFFICER. Six minutes.

Mr. KENNEDY. I will use 3 minutes now.

I have listened to my good friend talk about the fact that Government workers have some flextime and small businesses don't. Of course, the principal answer is that many of the Government employees have protections. They have the Federation of Government Employees, they have the Treasury Employees Union. AFSCME protects a great number of them. They have different collective bargaining benefits. Their interests can be protected. That is completely different from the current situation.

Second, the Senator from Wyoming points out the pressures on small business.

Look at this. States with higher minimum wages have more jobs in small businesses. This is the Commerce Department. This isn't just general rhetoric. This is the Commerce Department. From 1998 to 2001, 10 States and Washington, DC, with minimum wages higher than $5.15, had an employment rate of 4.8 percent. In the 40 States with minimum wage at $5.15, it was 3.3 percent.

This is the answer. We have seen it with the employment growth, that is, with the small businesses, which responds to the Senator's point with regard to small business. States with higher minimum wages add more retail jobs. Employment growth between January 1998 to 2004: 11 States and Washington, DC, with minimum wages higher than $5.15, a growth of 6.1 percent; 39 States with $5.15, 1.9 percent.

The fact is we are talking about fairness. We had a wonderful exposition. I am always delighted to hear from my friend from Wyoming. I always value it and I always learn something. But I didn't learn much about the minimum wage today. We are talking about the fact that every other time we have had a successful increase in the minimum wage, we have expanded the coverage, except with the proposal we will have on the floor of the Senate this afternoon with the Enzi proposal, which will actually reduce the total numbers of people who are covered.

Let's get back to what this issue is all about. This issue is about fairness, about the fact in 9 years we have not increased the minimum wage. We have increased Members' salaries in here. I didn't hear those who are opposed to our increase in the minimum wage out here speaking against the increase in Members' salaries. We have increased them 8 times for a total of $28,000. We have not hesitated to increase our salaries, but now we are not going to increase the minimum wage for working men and women who have not seen an increase in 9 years?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I withhold my remaining 3 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 12 minutes 30 seconds.

Mr. ENZI. Notify me when I have 3 minutes remaining.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. ENZI. I will go through the GOP alternatives again. They ought to be bipartisan alternatives. I am afraid in previous discussions they got polarized in spite of changes to the extent that some god policy initiatives that deserve bipartisan support will never have support from the other side. That would be a tragedy.

When the opposition says that my amendment does not have a minimum wage increase, I wonder what bill he is looking at. My bill has a $1.10 increase over the same period of time as his, although I think he is going to make a small change to his bill because there is a slight paperwork problem—but since it is the first-time paperwork problem it probably ought to be forgiven, just like my proposal would forgive small business first-time paperwork errors.

What we are talking about is six provisions that soften the blow of the increased mandate on small businesses.

First, permit family flextime for workers. Employees have the option of flexing their schedules over a 2-week period so they can work more hours 1 week and take hours off the next. The argument we have heard is that we are cutting overtime pay.

If flextime is a pay cut, then Senator KENNEDY and many of the Senate Democrats have voted to inflict pay cuts on workers. If flextime is wrong, then so was former President Clinton in 1994 when he extended it to all Federal employees because it increased effectiveness and job satisfaction and decreased turnover rates and absenteeism, the same thing it will do in the private sector. Why cannot somebody married to a Federal employee have the same advantage the Federal employee has?

Second, it would increase small business exemptions from the Fair Labor Standards Act. We have had, since the 1960s, the small business exemption has applied to businesses with $500,000 in receipts. This exemption amount has lagged behind inflation. The small business exemption should be at about $1.5 million. We are only raising it to $1 million.

Every Federal labor law has a small business threshold. To the Civil Rights Act of 1964, it was 15 employees. For the Family and Medical Leave Act, the threshold is 50 employees. Proponents minimum wage increases assert it is necessary to adjust the minimum wage to account for inflation. For the same reason, it only makes sense to adjust a small business threshold as well.

The real value adjusted for inflation of the small business exemption established in the 1960s exceeds $1.5 million. Senator KENNEDY uses his benchmark as the minimum wage rate for the same era. The Republican proposal is restrained and reasonable.

The third issue is relief for small business, one-time paperwork errors. Small business people making paperwork errors would receive an automatic forgiveness for the first mistake in paperwork matters. It applies only to routine administrative paperwork requirements imposed on small business by the Federal Government. This is commonsense protection for small businesses from the otherwise ''gotcha'' mentality of Government inspectors and only applies to businesses with spotless records who immediately correct the unintentional mistakes. My amendment also gives small businesses regulatory relief by increasing federal agencies compliance, review, and enforcement of the Small Business Regulatory Enforcement Fairness Act. It requires better compliance assistance for small businesses. Federal Government officials have given too often short shrift to the existing requirement to solicit public compliance guidelines. The Republican package includes specific provisions that the Government Accounting Office suggested to improve the clarity of these requirements.

Another provision of my amendment relates to the minimum wage tip credit for restaurant workers. This is so the restaurant can be sure all employees are being treated fairly, not just the high tip employees.

We also have small business tax relief in the form of simplified cash accounting methods for small businesses. It will mean they do not have to see accountants as often. As an accountant, I think that is a good idea.

It gives quicker depreciation for restaurants, who are a major employer for low skilled workers, and all of the tax provisions are fully offset.

The very modest tax cuts were targeted directly to businesses most likely to have minimum wage workers. Remember that in spite of the rhetoric, this amendment increases the minimum wage in the same amount and on the same dates that Senator KENNEDY's two-page proposal does. The difference is that my amendment attempts to smooth some of the bumps for those employers who will be most adversely affected by the increase.

These tax benefits will help small businesses that employ low-skills workers survive without drastic cuts in employment. We are trying to help the small business so that they will be able to afford the increase in the minimum wage. It is not an easy thing to come to the Senate and ask for a minimum wage increase. I am sure Senator KENNEDY knows that. He has been working on it a long time. I appreciate he dropped it back to what the Republicans were asking for earlier and what we have in my proposal at the present time.

I yield the floor and reserve the remainder of my time.

Mr. KENNEDY. I yield myself the remaining time.

Mr. President, we have had a good discussion. We did not have a chance to go through this excellent book, ''Raising the Floor,'' with these heart-rending stories happening in America every single day. Their recommendation? Increasing the minimum wage, ending poverty as we know it. It talks about increasing the minimum wage.

I didn't have the chance to go through ''Communities in Crisis,'' the excellent survey about the increase in hunger in the United States of America. The one thing we know how to do in this country is grow crops. The second thing we know how to do is deliver them. We know how to deliver product. But the explosion in the numbers of hungry in this country, particularly among children—there is an increasing number of homeless in our society, in all parts of our society. Talk to the various church groups about what is happening in every part of our Nation.

This is not going to be the sole answer to it, but we have not increased the minimum wage in 9 years. We have reached out to the Republicans. We have accepted their figure of $1.10 over 2 years. Our amendment is two pages long. Senator ENZI's amendment, with all respect, is 87 pages and includes all kinds of things.

We believe this is the time. Fairness demands this. The American people understand fairness. We are talking about men and women who work 40 hours a week, 52 weeks of the year. These are hard-working men and women who have a sense of pride and dignity in their work. They work hard, they try to provide for their children, they work one, two, or three jobs. We have not increased the minimum wage now for 9 years. Prior to that time—the 50 years before this—it was bipartisan. President Bush 1 signed an increase in the minimum wage, Jerry Ford, President Nixon, Dwight Eisenhower, and now we have been 9 years without this kind of increase.

This demands fairness. It demands we give hard-working Americans, those at the lower end of the economic ladder, on the first rung of the economic ladder, working hard, an increase.

I remind all of our colleagues of that extraordinary Newsweek cover talking about the other America. It talks about the problems of hunger, the problems of homelessness, and the problems of people being left out and left behind. We can make a downpayment with an increase in the minimum wage. I hope we will do it this afternoon.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 2063, AS FURTHER MODIFIED

Mr. KENNEDY. I have a consent request for a technical modification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2063), as further modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. MINIMUM WAGE.

(a) INCREASE IN THE MINIMUM WAGE.—

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.70 an hour, beginning 6 months after the date of enactment of the Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia and Independent Agencies Appropriations Act, 2006.

''(B) $6.25 an hour, beginning 12 months after that date.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

Mr. ENZI. I rise to summarize my comments regarding the amendments and to urge my colleagues to cast a vote against the Kennedy amendment and in favor of the minimum wage amendment I have offered.

What is before the Senate are two amendments that raise the minimum wage by the same amount, $1.10 over 18 months. The difference between the bills is that the Kennedy amendment, while raising the minimum wage the same amount as my amendment, fails to acknowledge that any raise in the minimum wage has some negative consequences on the employers, particularly small employers, who must find

the means to pay for the increase. The fact is that a negative economic impact on a small employer will probably result in a negative impact on that small employer's employees. This is an important aspect. When you give a pay increase, you have to find a way to pay for it.

My amendment recognizes that reality and provides some relief for those employers. It should be borne in mind these employers, particularly small employers, are the source of the vast majority of jobs that are held by minimum wage workers. We have to continue to keep these businesses viable and growing as a source of job creation. As I said before, I wish for the people working in those places to be the ones owning the business, and I have shared some examples of how that happens.

I ask that everyone bear in mind it is little solace to an individual earning minimum wage to learn that the minimum wage is increased but that he or she no longer has a job at which she can now earn the higher wage, or that it is not worth anything anymore because inflation took it away.

It is for this reason my amendment contains not only the same increase as Senator KENNEDY's amendment but includes provisions designed to soften the blow and ensure that those most-affected businesses continue to create jobs and entry-level, low-skilled employment opportunities.

I urge my colleagues to reject the amendment offered by Senator KENNEDY and to vote in favor of the more balanced and comprehensive approach to the minimum wage which is represented by my amendment.

I ask for a unanimous consent request that following the scheduled votes at 4:30 the Senate proceed to the vote in relation to the motion to suspend the rules in relation to the Dorgan amendment No. 2078, with no amendment in order to the amendment prior to the vote; provided there be 2 minutes equally divided prior to the vote. I further ask that Senator DORGAN be recognized for up to 5 minutes prior to the start of the scheduled votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator has 3 minutes 17 seconds remaining on his allotted time.

Mr. ENZI. I yield back my remaining time.

The PRESIDING OFFICER. The time is yielded back.

The Senator from North Dakota is recognized for 5 minutes.

AMENDMENT NO. 2078

Mr. DORGAN. I understand my amendment has been ordered in a group of three amendments to be voted on. I will take 5 minutes to explain this amendment.

This amendment deals with the establishment of the creation of a committee in the Congress to investigate the waste, corruption, and abuse in contracting in Iraq and also contracting, in most cases, sole-source contracts, no-bid contracts, by companies that have gotten billions of dollars for reconstruction in Iraq, and now for reconstruction on the gulf coast.

Let me go through some headlines to explain my concerns. In 5 minutes I cannot do much more than headlines, but I have held seven hearings on this subject now in the Policy Committee. ''No-bid contracts win Katrina work.'' That is the most recent one. ''White House uses practices criticized in Iraq rebuilding for hurricane-related jobs.''

''Ex-Halliburton workers allege rampant waste.'' ''They say the firm makes no effort to control costs, overspending taxpayer money in its contract with the United States in Iraq and Kuwait.''

''Halliburton faces criminal investigation.'' ''Pentagon probing alleged overcharges for Iraq fuel.''

''Audit questions $1.4 billion in Halliburton bills.''

I mention Halliburton. It has nothing to do with the Vice President. Everyone says, Well, you are attacking the Vice President. He used to be president of Halliburton, yes, but this is long after he was involved in Halliburton. The fact is this is about contracting abuse.

Let me go through a couple of the specific examples: New $85,000 trucks paid for by the American taxpayers abandoned or torched by the side of the road in Iraq if they have a flat tire or a plugged fuel pump. A case of Coca-Cola, $45.

They had gasoline delivered for twice the price that the folks who used to do the work in the Defense Energy Support Center said that gasoline could have been delivered for. Halliburton charged for 42,000 meals served to soldiers every day, when they were serving 14,000 meals to soldiers. They missed it by 28,000—overcharging 28,000 meals a day.

There was the loss of $18.6 million worth of Government equipment in Iraq that Halliburton was given to manage. There is also the leasing of SUVs. Listen to this, the leasing of SUVs for $7,500 a month. They ordered 50,000 pounds of nails, and they came in the wrong size. They are laying in the sands of Iraq. It does not matter. The taxpayer picks up the cost. This is all cost-plus.

Do you want to buy some hand towels for the troops? The Halliburton buyer who was to order the hand towels was told by his superiors, ''You have to order hand towels with the company logo on them,'' which more than doubled the price. It does not matter. The taxpayer is picking up the tab for all of this. It is unbelievable waste, fraud, and abuse.

Let me show one additional chart. This fellow shown in this picture testified at one of our hearings. These are $100 bills, batched together with Saran Wrap. He said: We used to play football with them. He said it was like the Old West. This is in Iraq. He said: We told people, subcontractors and contractors, we pay by cash. Bring a bag. Bring a bag. Here is the cash.

Now, for Hurricane Katrina, no-bid contracts once again. By the way, the top civilian official at the Army Corps of Engineers said this: I can unequivocally state that the abuse related to contracts awarded to Halliburton represents the most blatant and improper contract abuse I have ever witnessed during the course of my professional career.

Do you know what happened to her? She lost her job. Why? For speaking out. You don't dare say these kinds of things.

I spoke this morning about contracting abuse with respect to Hurricanes Katrina and Rita, the contracts down in the Gulf of Mexico. I will not go into that again except to say this: When the Government and FEMA pay a truck driver $15,000 to haul ice cubes from New York to Massachusetts—yes, New York to Massachusetts—where they are now in storage, to provide relief to hurricane victims in Louisiana, somebody ought to have their head examined.

Oh, the truck did go from New York, to Missouri, by mistake. FEMA directed them to Missouri. Then they said: Oh, we want you to go to Maxwell Air Force Base in Alabama. He took those ice cubes to Alabama. He sat there for 12 days, with hundreds of other trucks with food and clothing and ice and other things for victims—he sat there for 12 days—and then they said: We want you to put this back in storage in Massachusetts. So the taxpayers paid this trucker—and there were hundreds of them—$15,000 for hauling ice for the relief of hurricane victims in Louisiana, hauling that ice from New York to Massachusetts. Once again, somebody ought to have their head examined.

My point is, I would like to see a congressional committee examine this. This amendment would create a special committee. I hope my colleagues will believe, as I do, this waste, fraud, and abuse is intolerable, and we ought to deal with it by investigative committee.

Mr. President, I yield the floor.

AMENDMENT NO. 2063, AS FURTHER MODIFIED

The PRESIDING OFFICER. There is now 2 minutes equally divided before a vote in relation to the amendment offered by the Senator from Massachusetts.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, minimum wage workers are men and women of dignity. They are predominantly women. They are women with children. So it is a children's issue, a women's issue. These people who earn the minimum wage are men and women of color. It is a civil rights issue. But most of all, it is a fairness issue.

Over the period of these last 5 months, we have passed class action legislation to provide special help and assistance to many of the largest corporations in this country. We have

passed bankruptcy legislation to take care of the credit card companies. We passed an energy bill that will provide enormous bonuses to the oil companies.

We have an opportunity this afternoon to pass an increase in the minimum wage for workers who have not seen an increase in the minimum wage over the last 9 years. This is about fairness. Americans understand it. They have seen it on the cover of their magazines with Hurricane Katrina. They know our fellow Americans need a helping hand. This can be enormously helpful to those Americans.

Let's go ahead and pass it this afternoon.

Mr. FEINGOLD. Mr. President, I rise to lend my strong support to the amendment offered by the Senator from Massachusetts, Mr. KENNEDY, of which I am proud to be an original cosponsor.

It is far past time that we increase the Federal minimum wage. The last time Congress voted to increase the minimum wage was 9 years ago in 1996, and the last portion of this increase went into effect 8 years ago, in 1997. Since that time, consumers have faced increased prices for everything from food to clothing to housing to childcare. And in recent months, gas prices have skyrocketed, and home heating costs are expected to follow suit this winter.

And while prices have increased, the purchasing power of the current Federal minimum wage of $5.15 has decreased by nearly 20 percent. A minimum wage employee working 40 hours per week can expect to earn $10,712 per year—this is $4,500 below the poverty line for a family of three.

Many minimum wage earners are struggling to provide for the basic needs of themselves and their families. They cannot make ends meet on $10,712 per year. These are hard-working Americans who deserve a fair shake and who deserve a raise. Many work more than one job, sacrificing time with their children just to scrape by. Without an increase, these workers will continue to work long hours to support their families with little hope of saving for the future when they are barely able to afford the basic necessities of the present.

According to a recent report by the Center on Budget and Policy Priorities and the Economic Policy Institute, ''[t]he minimum wage now equals only 32 percent of the average wage for private sector, non-supervisory workers. This is the lowest share since 1949.'' In other words, the average minimum wage worker makes less than one-third of the average nonsupervisory private sector worker.

I am concerned about the argument made by some who oppose this amendment that most minimum wage workers are entry-level workers in first jobs who will advance their way out of these jobs and move on to better paying jobs. While that is certainly true for some workers, about two-thirds of those who would benefit from this increase are adults, and one-third of them are the sole breadwinners for their families.

I was proud to vote for the 1996–1997 increase that brought the minimum wage to its current $5.15, and I am pleased to be a cosponsor of legislation introduced by the Senator from Massachusetts, Mr. KENNEDY, that would increase the minimum wage to $7.25. The Economic Policy Institute notes that such an increase would directly help more than 7.3 million American workers. This increase will also help the children and other dependents of these workers potentially more than 15 million people.

Congress's inaction on this issue over the past several years has led to a growing grass-roots movement to increase the minimum wage at the state level. A number of States have enacted increases over the past few years, including Wisconsin. On June 1, 2005, the minimum wage for most workers in my State was increased to $5.70 per hour. The Wisconsin Department of Workforce Development estimated that this increase would help between 100,000–150,000 workers in my State. While this increase represents a step forward for Wisconsin workers, more work still needs to be done to boost the purchasing power of these and other workers around our country.

The amendment that we are considering today would increase the minimum wage by $1.10 to $6.25 over the next 18 months. While this modest increase will not go as far as I and many others in this body would in supporting the hard-working Americans who badly need a raise, it is a long-overdue step in the right direction.

The amendment offered by the Senator from Wyoming, Mr. ENZI, would also provide a $1.10 per hour increase in the Federal minimum wage. However, this amendment would also undermine low-income workers' struggle to break the cycle of poverty by allowing employers to deny these workers badly needed overtime pay through a so-called flex time scheme. This amendment, which is a total of 87 pages, also includes a number of other incentives for businesses that are intended to dampen the opposition of business groups to even this modest $1.10 increase in the Federal minimum wage. However, what these proposals would really do is continue the process of dismantling the 40-hour work week that was initiated with the implementation of the administration's ill-conceived overtime rule changes last year.

By the Senator from Wyoming's, Mr. ENZI, own admission, the committee which he chairs, the Committee on Health, Education, Labor, and Pensions, has not even considered many of these provisions. These provisions should not be rolled into a proposal to increase the minimum wage. The need to increase the Federal minimum wage stands on its own merit. And while I am certainly willing to consider a package of reforms for business, this is not the way to do it. Passage of such antiworker proposals should not be a condition of providing a much-needed wage increase for the lowest income Americans.

I urge my colleagues to oppose the Enzi amendment and to support American workers by voting for the Kennedy amendment.

Mr. KERRY. Mr. President, I want to voice my strong support for an amendment offered by Senator KENNEDY to raise the Federal minimum wage from its current, astonishingly low, rate of $5.15 an hour to $6.25 an hour.

An increase in the minimum wage is long overdue. Today, the real value of the minimum wage is more than $3.00 below what it was in 1968—and at the lowest real rate in half a century. Since Congress last acted to raise the minimum wage in 1996, its value has eroded by 17 percent. This indifference is simply unacceptable. To have the same purchasing power it had in 1968, the minimum wage would have to be more than $8.50 an hour. Yet nothing has been done, and the consequences of our inaction are very real and very painful to millions of Americans.

Since President Bush took office, the number of Americans living in poverty has increased by 5.3 million. Today, 37 million people live in poverty, including 13 million children.

Yet, despite the damage we do to our citizens and to our economy, this body has been unwilling to increase the Federal minimum wage. We had no problem passing a budget that gives tax cuts to millionaires and trillion-dollar companies. Yet we have had tremendous problems ensuring that hard-working Americans, Americans who work full time jobs and play by all the rules, won't have to live below the poverty line, won't have to decide between educating their children and feeding their family, won't have to chose between heating their home and buying prescription drugs.

It is time for us to get our priorities straight. Seven and a half million workers will directly benefit from a minimum wage increase. Raising the minimum wage to $6.25 an hour would give minimum wage earners an additional $2,288 a year—enough to pay for a community college degree. Congress should act now to pass a minimum wage increase that makes up for our inexcusable failure to act in the past. I support Senator KENNEDY's amendment to increase the Federal minimum wage, and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Thank you, Mr. President.

Mr. President, I urge my colleagues to oppose the Kennedy amendment. Both amendments have the $1.10 minimum wage increase in them. But only my amendment provides for some way to offset that mandate so that small businesses which employ minimum

wage workers can afford the minimum wage.

My colleague's amendment will harm small businesses' economic growth and job creation. It would raise the cost for small businesses without providing any relief to soften the blow, forcing employers to make difficult choices, such as raising prices, reducing employee benefits, or terminating employees.

I urge my colleagues to support my amendment. My amendment protects small businesses' economic growth and job creation. As I said, they both raise the minimum wage by $1.10, to $6.25, in two steps of 55 cents over 18 months.

My amendment recognizes and addresses the fact that all minimum wage increases have certain costs. My amendment protects against the negative impact of this wage hike on small businesses, the biggest source of job creation. This proposal is responsible and reasonable and designed not to dislocate or unintentionally harm workers.

I ask you to support my amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The question now occurs on amendment No. 2063, as further modified, offered by the Senator from Massachusetts.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I raise a point of order under section 425(a)(2) of the Congressional Budget Act that the amendment is an unfunded mandate.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CORZINE) would vote ''aye.''

The yeas and nays resulted—yeas 47, nays 51, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—47

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Harkin	Nelson (FL)
Byrd	Jeffords	Nelson (NE)
Cantwell	Johnson	Obama
Carper	Kennedy	Pryor
Chafee	Kerry	Reed
Clinton	Kohl	Reid
Conrad	Landrieu	Rockefeller
Dayton	Lautenberg	Salazar
DeWine	Leahy	
Santorum	Schumer	Stabenow
Sarbanes	Specter	Wyden

NAYS—51

Alexander	DeMint	Martinez
Allard	Dole	McCain
Allen	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Roberts
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Chambliss	Hagel	Stevens
Coburn	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Collins	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NOT VOTING—2

Corzine	Inouye

The PRESIDING OFFICER. On this vote there are 47 yeas, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. CORZINE. Mr. President, I rise today to speak in support of Senator KENNEDY's amendment to increase the Federal minimum wage to $6.25 an hour. I strongly support this amendment. Unfortunately, I was delayed in arriving in Washington, DC, this afternoon. Had I been here, I would have voted yes.

An increase in the Federal minimum wage is long overdue.

It has now been over 8 year since the minimum wage was increased to its current level of $5.15 per hour. Since that last increase, Congress's failure to adjust the wage for inflation has reduced the purchasing power of the minimum wage to record low levels. In fact, after accounting for the loss of real value due to inflation, the purchasing power of the minimum wage has not been this low since the wage increase of 1945.

When Congress acted to raise the minimum wage in 1996, the wage was raised from $4.75 to its current $5.15. At the time, this modest increase had real results for American families. The adjustment increased the take-home pay of nearly 10 million hard-working Americans. But with inflation, the real dollar value of that increase is long gone.

So that we are clear, raising the minimum wage is a family issue. So often in this body we talk about family issues. This is our chance to act.

No family gets rich from earning the minimum wage. In fact, the current minimum wage does not even lift a family out of poverty. A person earning the current minimum wage, working 40 hours a week, 52 weeks a year, earns only $10,700—nearly $4,000 below the poverty line for a family of three.

Seven out of every 10 minimum wage workers are adults, and 40 percent of minimum wage workers are the sole breadwinners of their families. Moreover, a disproportionate number of minimum wage workers are women. Sixty percent of minimum wage workers are women, and many are single mothers who must put food on the table, make rent payments, and provide childcare. Increasing the minimum wage by a mere $1.10 per hour would provide tangible help to these families in the form of groceries, rent, and the ability to pay rising energy costs.

I am proud that lawmakers in my State have recognized that the Federal minimum wage level simply is not adequate for a decent standard of living in high-cost States such as New Jersey. On October 1, the minimum wage in my State increased to $6.15, and on October 1, 2006, it will increase again to $7.15. I know that this increase will have a meaningful effect on people's lives: it means on average 15 months of child care; over a year of tuition at a community college; 10 months of heat and electricity; 6 months of groceries; and 5 months of rent. It is estimated that the increase will directly benefit some 200,000 workers.

But fair wages should not be guaranteed only to workers in a few States. I support Senator KENNEDY's amendment because I believe that all Americans should be entitled to a decent standard of living. Unfortunately, neither the current minimum wage, nor Senator ENZI's amendment, can relieve the problems of low-income families in this country.

I support the Kennedy amendment because it seeks to provide a real-wage increase to workers that will help them keep up with the rising cost of living in our Nation. I strongly oppose the Enzi amendment offered by my Republican colleagues, because it is a cruel hoax on hard-working Americans.

It is politics over policy, and it is just plain wrong.

All of our hard-working families nationwide need and deserve a minimum wage that reflects the increased cost of living in America. It is the least we can do for people who work hard and make a positive contribution to our great Nation.

I strongly support a raise in the minimum wage for the millions of Americans who work so hard to support their families. We as Americans can do better. We must act now.

AMENDMENT NO. 2115

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to a vote in relation to amendment No. 2115 offered by the Senator from Wyoming.

Who seeks recognition?

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 1 minute.

Mr. ENZI. I thank the Chair.

Mr. KENNEDY. Mr. President, I make a point of order. The Senator is entitled to be heard and I think the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask my colleagues to vote for my amendment,

which raises the minimum wage level by the same amount as the previous amendment. The reason this amendment deserves your support whereas the last one did not is that my amendment has some small business offsets that will actually give them a chance to be able to pay the minimum wage increase without having to lay people off, without having to accept some other alternatives that would be very detrimental to employees. This amendment helps the small business people that employ minimum wage workers by giving them some tax breaks which are all offset. This amendment also includes five other good policy initiatives which I have mentioned previously in great detail.

I would ask that you vote for this amendment and provide small businesses with the help they need to be able to afford a minimum wage increase.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, if you are interested in an increase in the minimum wage, this is not the way to go. We offered an increase in the minimum wage which was two pages. His amendment is 87 pages, and in that 87 pages includes 3, at least, very important items that are going to short-change American workers.

First, it changes the eligibility of those who are going to be covered and eliminates 10 million workers who are covered today.

Secondly, it eliminates overtime. It is called flextime, but the decision whether it is going to be flexible will be decided by the employer, and therefore you are going to find that for the average worker in this country earning $44,000, $3,000 in overtime will be eliminated.

Finally, this legislation effectively preempts 31 States that have a tip credit program. On page 21: Any State may not establish or enforce their tip credit.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. That will disadvantage workers in 31 States. This is the wrong amendment for American workers and it should be defeated.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, I make a point of order that the pending amendment violates section 425 of the Congressional Budget Act of 1974.

Mr. ENZI. Mr. President, I move to waive the applicable section of the Budget Act and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The yeas and nays resulted—yeas 42, nays 57, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—42

Alexander	Domenici	Murkowski
Allen	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Kyl	Talent
Craig	Lugar	Thomas
Crapo	Martinez	Thune
DeWine	McCain	Voinovich
Dole	McConnell	Warner

NAYS—57

Akaka	DeMint	Lieberman
Allard	Dodd	Lincoln
Baucus	Dorgan	Lott
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Gregg	Nelson (NE)
Burr	Harkin	Obama
Byrd	Inhofe	Pryor
Cantwell	Isakson	Reed
Carper	Jeffords	Reid
Chafee	Johnson	Rockefeller
Chambliss	Kennedy	Salazar
Clinton	Kerry	Sarbanes
Coburn	Kohl	Schumer
Conrad	Landrieu	Stabenow
Cornyn	Lautenberg	Sununu
Corzine	Leahy	Vitter
Dayton	Levin	Wyden

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the ayes are 42, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The amendment falls.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, on vote No. 257, the Kennedy minimum wage amendment, Senator CORZINE was absent because of a plane delay. If he were present, he would have voted ''aye''.

AMENDMENT NO. 2078

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to the vote on the motion to suspend.

Who seeks recognition?

The Senator from North Dakota.

Mr. DORGAN. The motion to suspend is my amendment. It deals with an underlying amendment that would establish an investigative committee to deal with waste, fraud, and abuse dealing both with the country of Iraq and the reconstruction in Iraq, as well as reconstruction in Louisiana, Mississippi, and in the gulf region following Hurricanes Katrina and Rita.

I will not recite all of the examples of substantial abuse from sole-source contracts, but it is dramatic. I believe very strongly, just as Harry Truman did back in the 1940s in uncovering substantial waste, fraud, and abuse in the Department of Defense at a time when a member of his own party occupied the White House, I believe this Congress deserves good, strong oversight. We will get that with a special committee looking into this massive waste, fraud, and abuse.

I would hope very much my colleagues would agree with me. If they believe we are spending too much, that there is waste, fraud, and abuse that we ought to get after, they ought to be voting for this amendment and vote to suspend the rules.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I appreciate the concern of my friend from North Dakota, who is a vigilant guardian of taxpayer dollars. I point out that the Armed Services Committee is doing work literally every day and every week on this issue. We also have Appropriations Committee oversight on much of this, and I believe that under the existing structure we have today, including the excellent leadership of our chairman and vice chairman of the Homeland Security Committee, that this amendment is not necessary.

I understand the concern of the Senator from North Dakota. I just do not believe it is necessary at this time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I also point out that there is a special inspector general overseeing all of these contracts. His name is Stuart Bowen. He does an excellent job. He has been very aggressive in his audits and investigations. He regularly briefs all Members who are interested, and he issues a report every quarter on his findings. So I do believe we have an adequate structure in place, a needed structure to be sure.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the motion to suspend rule XVI, paragraph 4, for the consideration of amendment No. 2078 offered by the Senator from North Dakota.

Mr. BOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Montana (Mr. BURNS).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The yeas and nays resulted—yeas 44, nays 54, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—44

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Byrd	Kennedy	Reed
Cantwell	Kerry	Reid
Carper	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Conrad	Lautenberg	Sarbanes
Corzine	Leahy	Schumer
Dayton	Levin	Stabenow
Dodd	Lieberman	Wyden
Dorgan	Lincoln	

NAYS—54

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner

NOT VOTING—2

Burns	Inouye

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 54. Two-thirds of the Senators voting not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment falls.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we are going to clear a number of amendments, including the amendment by the Senator from Iowa. The ranking member and I were going to clear a number of amendments and agree to them one at a time. Did the Senator have a very brief statement which he wants to make on that or does he want to speak for a longer time?

Mr. HARKIN. Mr. President, I have about 5 minutes at the most.

Mr. BOND. Mr. President, on that assumption, we will defer to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the managers of the bill. I have an amendment to send to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 2076

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2076.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that no funds may be used to provide assistance under section 8 of the United States Housing Act of 1937, to certain students at institutions of higher education, and for other purposes)

At the appropriate place insert the following:

SEC. 1____. (a) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who—

(1) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002));

(2) is under 24 years of age;

(3) is not a veteran;

(4) is unmarried;

(5) does not have a dependent child; and

(6) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002), shall be considered income to that individual.

(c) Not later than 30 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue final regulations to carry out the provisions of this section.

Mr. HARKIN. Mr. President, in June of 2004, an article appeared in the Des Moines Register outlining serious systemic abuses of the section 8 program by a number of wealthy athletes at the University of Iowa. For example, Brian Ferentz, a Hawkeye football player, was found to be living in subsidized housing despite the fact that his father, Kirk Ferentz, lives in a million-dollar mansion in the same town and is paid $2 million a year to coach his team. To add insult to injury, Brian's scholarship actually included a $700-per-month stipend for housing, yet he was living in section 8 housing.

After reading about this abuse, I immediately wrote to the Secretary of Housing and Urban Development, urging him to close this loophole, which was the unintended consequence of a 1995 regulation allowing students to qualify for section 8, in order to help people of modest means have a chance at an education and to better themselves. Unfortunately, HUD's response was far from adequate. HUD's solution allowed students who live away from home for just a year into the program, if their parents stopped claiming them on their taxes. It is a pretty easy calculation to see that a simple deduction is worth less than a year's rent, so it is easy for parents to decide to stop claiming their otherwise dependant children in order to save money.

Fortunately, language was included in the final omnibus appropriations bill last year closing a little more of this loophole. It said that if you get an athletic scholarship, anything above tuition should be counted as income. Unfortunately, this doesn't go far enough. This doesn't address people who are getting housing stipends from other kinds of scholarships, and doesn't address students whose millionaire parents decided not to claim them on their taxes, but have those kinds of resources available to them.

Recently, the Des Moines Register took another look at who is living in the notorious housing project that has housed so many student athletes in the past. The problem is still there, in full force, well over a year after my first letter to HUD. The Register's Lee Rood reported the following:

While other students foraged this month for new apartments, at least three dozen Hawkeye athletes—many of whom receive $6,560 annually for room and board as well as free tuition—returned to one of the best low-rent housing deals in this notoriously high-rent city: Pheasant Ridge Apartments.

It is time to solve this problem once and for all. These students are taking up housing that is meant for truly needy people—people who typically have to wait 2 years for housing assistance, despite the fact that they may have the means to pay rent.

My amendment would simply require students' parental income to be considered in determining their eligibility unless they are independent students under the same qualifications that the Department of Education uses in their Free Application for Student Financial Aid. That is to say, students' parental income would count against them unless they are over age 24, married, have kids, or are veterans. Further, it would require a student's scholarship above the cost of tuition to be counted as income.

Clearly, students who are truly needy should have access to section 8. Help with housing often makes the difference between being able to get an education and not being able to make ends meet. However, kids whose parents have the means to help them should not be living in this housing. And if they are getting a housing stipend, some of it should actually be spent on housing. That's all I ask.

We cannot allow our system to be abused by people who take taxpayer dollars inappropriately, and then go off to sign multimillion-dollar NFL contracts. People who do need the help—including our most frail elderly, people with disabilities, and genuinely disadvantaged folks—are getting displaced. This has been going on for well over a year, and despite pleas to HUD to fix this, the abuse has not stopped. There is no other way to put a quick end to this fraud. My amendment will end it with the stroke of the President's pen.

This amendment will finally close all those loopholes.

I thank the manager of the bill and the ranking member for their consideration. I urge acceptance of this amendment.

Mr. BOND. Mr. President, we believe the amendment of the Senator from Iowa makes good sense. It has been cleared on both sides. I believe it can be agreed to by voice vote.

The PRESIDING OFFICER. Is there further debate on amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2076) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I have a number of amendments which have been cleared on both sides. We propose to bring them up individually and ask for their immediate consideration and a voice vote.

I ask unanimous consent to set aside any pending amendments in order to offer those amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2070

Mr. BOND. First, I call up amendment 2070 on behalf of Senator COLLINS. This amendment would repeal the increased limit on the micropurchase threshold on Government credit cards.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Ms. COLLINS, Mr. LIEBERMAN, Mr. AKAKA, Mr. WARNER, Mr. LEVIN, Mr. COLEMAN, Mr. DORGAN, and Mr. WYDEN, proposes an amendment numbered 2070.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To repeal the increased micropurchase threshold)

On page 406, between lines 7 and 8, insert the following:

SEC. 724. REPEAL OF INCREASE IN MICRO-PURCHASE THRESHOLD.

Section 101 of the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–62; 119 Stat. 1992) is repealed.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senators Dorgan and Wyden be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2070) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2101, AS MODIFIED

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of Senator AKAKA.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. AKAKA, and Mr. BINGAMAN, proposes an amendment numbered 2101, as modified.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for an Internal Revenue Service report regarding tax refund procedures and practices)

On page 293, after line 25, add the following:

SEC. _____. By not later than June 30, 2006, the Internal Revenue Service, in consultation with the National Taxpayer Advocate, shall report on the uses of the Debt Indicator tool, the debt collection offset practice, and recommendations that could reduce the amount of time required to deliver tax refunds. In addition, the report shall study whether the Debt Indicator facilitates the use of refund anticipation loan (RALs), evaluate alternatives to RALs, and examine the feasibility of debit cards being used to distribute refunds.

Mr. BOND. Mr. President, this amendment requires the IRS to submit a report on the debt indicator program which is currently used by the IRS to assist in tax filing and speeding up tax refunds where applicable. Senator AKAKA has raised legitimate concerns on whether the debt indicator has led to the abuse of certain refund loans. While there are legitimate and appropriate refund loans, there is, unfortunately, some abuse of them. We need to address this problem.

This amendment has been modified after discussion with our staff and the IRS.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2101), as modified, was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2139

Mr. BOND. Mr. President, I send to the desk an amendment on behalf of Senator BOXER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mrs. BOXER, proposes an amendment numbered 2139.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that proper precautions are taken by airports and air carriers to recognize and prevent the spread of avian flu, and for other purposes)

On page 219, line 5, strike the period and insert the following: ": *Provided further*, That the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Administrator of the Federal Aviation Administration, not later than 60 days after the date of enactment of this Act, shall establish procedures with airport directors located at United States airports that have incoming flights from any country that has had cases of avian flu and with air carriers that provide such flights to deal with situations where a passenger on one of the flights has symptoms of avian flu .".

Mr. BOND. Mr. President, this amendment has been cleared on both sides. It requires the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and FAA, to establish procedures to deal with airline passengers who have avian flu symptoms.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2139) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, on a lighter note, I understand that David Letterman last night said there had been an instance of avian flu being transmitted to human beings. He also noted that several Astros had come into contact with the Cardinals on Monday night and suffered greatly. Fortunately, I hope that epidemic only returns tonight and tomorrow night.

AMENDMENT NO. 2073, AS MODIFIED

Mr. BOND. Mr. President, I call up amendment No. 2073, and I send a modification to the desk on behalf of Senator INHOFE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. INHOFE, proposes an amendment numbered 2073, as modified.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allocate funds for improvement to Lawton-Fort Sill Regional Airport, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or otherwise made available in this Act may be used by the Federal Aviation Administration for ARAC consolidation of Fort Sill, Oklahoma into OKC TRACON: *Provided*, That $3,000,000 of the fund appropriated under the heading "Facilities and Equipment" shall be available for ARAC operation and maintenance at Fort Sill, Oklahoma.

Mr. BOND. Mr. President, as a result of BRAC decisions, the military is reconsidering closing the Army Radar Approach Control at Fort Sill, OK.

This amendment prohibits the FAA from moving air traffic control over the area to the TRACON at Oklahoma City.

The amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 2073), as modified, was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of Senator STABENOW and ask it be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Ms. STABENOW, proposes an amendment numbered 2140.

The amendment is as follows:

(Purpose: To provide additional funds to support programs established under the LEGACY Act of 2003)

On page 316, line 26, after ''Provided,'' insert ''That of the amount made available under this heading, $10,000,000 shall be made available to carry out section 203 of Public Law 108-186,

Mr. BOND. Mr. President, this amendment deals with the HUD elderly demonstration program. It provides a set-aside out of HUD's 202 elderly housing program to fund the legacy housing program which provides for intergenerational housing units to assist low-income grandparents who are heads of households. This program was enacted in 2003. It seems to make eminent good sense to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2140) was agreed to.

Mr. BOND. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2072, AS MODIFIED

Mr. BOND. Mr. President, I call up amendment numbered 2072 on behalf of Senator CRAIG, and I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. CRAIG, Mr. CRAPO and Mrs. MURRAY, proposes an amendment numbered 2072, as modified.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2072), as modified, is as follows:

(Purpose: To require the use of a sliding scale match ratio for certain transportation projects in the State of Idaho)

On page 276, after line 24, insert the following:

SEC. ___. Subsection (a) of section 1964 of Public Law 109–59 is amended by inserting ''Idaho, Washington,'' after ''Oregon,''.

Mr. BOND. I ask that Senator MURRAY be added as a cosponsor.

The amendment clarifies the non-Federal share for certain funding. It has been cleared on both sides of the aisle.

I ask my colleague if she wishes to make any comments.

Mrs. MURRAY. Mr. President, this amendment is an important step for both of our States. I appreciate the Senator from Missouri bringing it forward tonight.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2072), as modified, was agreed to.

Mr. BOND. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2123

Mr. DAYTON. Mr. President, I call up amendment numbered 2123 for immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 2123.

Mr. DAYTON. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prevent gas and oil gouging during natural disasters)

At the end of the bill, add the following:

TITLE ___—NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005

SEC. _01. SHORT TITLE.

This title may be cited as the ''Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005''.

SEC. _02. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. _03. RESTRICTION ON PRICE GOUGING.

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed $5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(c) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

Mr. DAYTON. This makes it a felony to raise oil or gas prices more than 15 percent during a natural disaster and other emergencies, and gives the U.S. Trade Commission, U.S. Department of Justice, and State Attorneys General the authority to prosecute violators. This creates an exception for cases in which a price increase is directly attributable to additional costs incurred by the seller.

Currently, no Federal laws exist to address gasoline price gouging. Only 13 States have such laws to prosecute those who raise prices arbitrarily during times of emergency.

On September 1, in the immediate aftermath of Hurricane Katrina, President Bush said in response to the price gouging that was underway:

There ought to be zero tolerance of people breaking the law during an emergency such as this, whether it be looting or price gouging at the gasoline pump, or taking advantage of charitable giving or insurance fraud.

On September 6th of this year, I wrote a letter to the U.S. Attorney General in which I said, in part:

I respectfully urge the Justice Department to follow through on the President's warning and to investigate the sudden spike in gas prices nationwide, following Hurricane Katrina.

I further wrote:

I am deeply concerned that oil suppliers have used Hurricane Katrina as an excuse to grossly overcharge consumers, regardless of whether fuel is in short supply. The Administration has a responsibility to protect consumers from anyone who would exploit catastrophic circumstances for outrageous profit,

and I respectfully urge you to investigate this matter.

I ask unanimous consent my letter be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1)

Mr. DAYTON. Almost 7 weeks later, I have not received even the courtesy of a reply from the U.S. Attorney General. More importantly, I am not aware of anything that he has done to investigate collusion among the oil companies, the refiners, and the gasoline distributors whose post-Hurricane Katrina price escalations parallel one another.

Gasoline prices nationwide are 36 percent higher than 1 year ago. Natural gas prices are 145 percent higher. That means that current natural gas prices are almost 2½ times what they were a year ago.

The price of home heating oil in my home State of Minnesota now is 63 percent above a year ago. Americans everywhere are being ravaged economically by energy companies, as the citizens in Louisiana and Mississippi were ravaged by Katrina—although, obviously, their physical and economic devastation was even worse.

While we have properly come to the aid of hurricane victims, Congress has done nothing to help the victims of this energy price disaster. Apparently, the Bush administration has failed them, also.

My amendment is an opportunity to do something to stop energy price exploitation, to make price gouging as illegal as it is immoral.

Actions speak louder than words. Now is the time to act against exorbitant energy prices, not just talk about them. The vote on my amendment will show who is serious about driving energy costs down for all Americans, and who is not.

EXHIBIT 1

SEPTEMBER 6, 2005.

Hon. ALBERTO GONZALES,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: On September 1st, President Bush said, with respect to price gouging following Hurricane Katrina, ''There ought to be zero tolerance of people breaking the law during an emergency such as this, whether it be looting, or price-gouging at the gasoline pump, or taking advantage of charitable giving, or insurance fraud.''

I respectfully urge the Justice Department to follow through on the President's warning and to investigate the sudden spike in gas prices nationwide, following Hurricane Katrina.

In my home state of Minnesota, gas prices rose by 52 percent—from $1.97 to $3.01 per gallon—in the three-month period from June 1st to September 1st. In three days alone, from August 29th to September 1st, Minnesota gas prices surged 45 cents per gallon. I understand that storm damage to oil operations off the Gulf Coast has caused part of the problem. However, most of Minnesota's oil supply originates from Canada.

I am deeply concerned that oil suppliers have used Hurricane Katrina as an excuse to grossly overcharge consumers, regardless of whether fuel is in short supply. The Administration has a responsibility to protect consumers from anyone who would exploit catastrophic circumstances for outrageous profit, and I respectfully urge you to investigate this matter.

Thank you for your consideration of my request.

Sincerely,

MARK DAYTON.

Mr. BOND. Mr. President, not having had a chance to review the entire workings of the amendment, this is a very serious legislative amendment. Unfortunately, this is not the appropriate place to raise this legislation. It is more appropriately concerned with the Energy Committee or other committees. I, therefore, raise a point of order that this is legislation on an appropriations bill. I believe now the Chair has a copy of the amendment. I raise an objection under rule XVI that this is legislation on an appropriations bill.

The PRESIDING OFFICER. In the opinion of the Chair, the point is well-taken. This is legislating on an appropriations bill and the amendment falls.

Mr. BOND. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2141

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington, [Mrs. MURRAY], proposes an amendment numbered 2141.

Mrs. MURRAY. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the U.S. Interagency Council on Homelessness to conduct an assessment of guidance disseminated by agencies for grantees of homeless assistance programs)

At the appropriate place, insert the following: Page 406, line 8 insert a new paragraph.

SEC. 724. The United States Interagency Council on Homelessness shall conduct an assessment of the guidance disseminated by the Department of Education, the Department of Housing and Urban Development, and other related federal agencies for grantees of homeless assistance programs on whether such guidance is consistent with and does not restrict the exercise of education rights provided to parents, youth, and children under subtitle B of title VII of the McKinney-Vento Act: *Provided*, That such assessment shall address whether the practices, outreach, and training efforts of said agencies serve to protect and advance such rights: *Provided further*, That the Council shall submit to the House and Senate Committees on Appropriations an interim report by May 1, 2006, and a final report by September 1, 2006.

Mrs. MURRAY. This amendment has been cleared on both sides. It simply requires the U.S. Interagency Council on Homelessness to make sure that all of the appropriate agencies take into consideration the homeless assistance programs. This is especially important for kids today who are homeless, to make sure their rights are protected.

I ask for its immediate consideration.

Mr. BOND. Mr. President, I understand this amendment is necessary because in some homeless shelters, children are being sent to schools where they have not been going. It has caused a great deal of confusion. This is an appropriate measure and we accept it on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2141) was agreed to.

Mr. BOND. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. SNOWE. Mr. President, I rise today for one very simple reason, the days are relentlessly marching toward winter . . . the clock is ticking as the thermometer edges ever downward . . . and it would be unconscionable for Congress to adjourn for the year without providing critical, additional assistance for LIHEAP, the Low Income Home Energy Assistance Program, at a time of skyrocketing fuel prices.

There should be no mistake, this is an emergency and a crisis we know is coming, and it would be an abrogation of our responsibility to stand by and allow it to occur. It does not take a crystal ball to predict the dire consequences when home heating oil in Maine is $2.52 per gallon, up 59 cents from a year ago . . . kerosene prices average $2.95 a gallon, 75 cents higher than this time last year, and it is not even winter yet. Some projections have a gallon of heating oil reaching $3.00.

So understandably, we are already hearing the mounting concern ''how will I pay for home heating oil when it's 30 percent more than last year, and I struggled to make ends meet then?'' ''How will I afford to pay half again as much for natural gas?'' People need to know now that they can count on us for assistance.

This is a necessity of life—so much so that 73 percent of households in a recent survey reported they would cut back on, and even go without, other necessities such as food, prescription drugs, and mortgage and rent payments. Churches, food pantries, local service organizations—they are all hearing the cry, and all the leaves aren't even yet off of the trees. The fact is, countless American's don't have room in their budget, many on fixed incomes, for this sudden surge in home heating prices but surely, in looking at our national priorities, we can find room in our budget to help Americans stay warm this winter.

Because of the supply disruptions caused by the hurricanes at a time when prices were already spiraling up, prices have been driven even higher and are directly affecting low income Mainers and how they will be able to pay for their home heating oil, propane and kerosene this winter. A recent Wall Street Journal quoted Jo-Ann Choate, who heads up Maine's LIHEAP program. Ms. Choate said, ''This year we've got a very good chance of running out.'' Eighty-four percent of the applicants for the LIHEAP program in the State use oil heat. Over 46,000 applied for and received State LIHEAP funds last winter. Each household received $480, which covered the cost of 275 gallons of heating oil.

The problem this winter is that the same $480 will buy only 172 gallons, which a household will use up in the first 3 to 4 weeks in Maine. What will these people do to stay warm for the four or five months left of winter? The water pipes will freeze and then break, damaging homes. People will start using their stoves to get heat. The Mortgage Bankers Association expects that the steep energy costs could increase the number of missed payments and lost homes beginning later this year. My State is expecting at least 48,000 applicants this winter, so there will be less money distributed to each household unless we can obtain higher funding for the LIHEAP program.

Ms. Choate says that Maine plans to focus on the elderly, disabled, and families with small children, and is studying how to move others to heated shelters. This is why our efforts are so very important. And it isn't just Maine, it is happening in all of the Nation's cold weather States. Quite simply, without increased funding, we are forcing the managers of State LIHEAP programs to make a Solomon's choice. I request that the Wall Street Journal article of October 6, 2005 be printed for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 6, 2005]

FEARING SHORTFALL LINKED TO HURRICANES, STATES SCRAMBLE TO STRETCH FEDERAL AID AMONG THE NEEDY

(By John J. Fialka)

WASHINGTON.—State managers of the $2 billion federal program that helps poor people pay their heating bills say that price increases following hurricanes Katrina and Rita could mean some homes will run out of fuel this winter.

The Low-Income Home Energy Assistance Program has helped consumers pay about half of the average $600 home heating bill in recent years. But this winter will be different. The Department of Energy estimates that the cost of heating an average home with oil will rise to $1,666 and to $1,568 for natural gas, but the federal money budgeted for the program remains the same.

''We're looking at a situation we've never really faced before,'' says Mark Wolfe, executive director of the National Energy Assistance Directors' Association, state agencies that funnel the federal money to people who meet state criteria for fuel help.

The problem will be most acute in Northern states, where running out of fuel poses health risks, particularly to the elderly, and could damage homes if water pipes freeze and then break. ''This year we've got a very good chance of running out,'' says Jo-Ann Choate, who manages the program for Maine's Housing Authority.

Her state's program has already received a host of new applications, but its buying power has shrunk. Last year, the program paid $480 for each household it assisted, covering the cost of 275 gallons of heating oil. This year, $480 will buy only 172 gallons. She figures that in a normal winter, ''That will go in the first three or four weeks.''

If there is a funding shortfall, Maine plans to focus the money it has on the elderly, disabled and families with small children. It is studying how to move others to heated shelters. ''We'll need to get people who know how to drain the pipes if people are moved out of their homes,'' Ms. Choate says. ''They'll have to be volunteers, though, because we'll have no money to pay them.''

In Wisconsin, Susan Brown, director of the state's energy-assistance program, says the program ''will pay less of a given heating bill.'' The number of clients—70% of whom use natural gas—has traditionally grown by 2% a year. This year, she worries that number could increase by as much as 30%. ''If that's the case,'' she warns, ''we will simply have to shut the program down.''

According to the Department of Health and Human Services, which provides the money to states, heating-bill increases are felt more acutely by the poor. In 2002, for example, the average household spent 5.9% of its income on heating compared with 12.6% spent by low-income households.

Additional help may be on the way as Congress and the Bush administration weigh proposals to increase funding. Senate Democrats led by Sen. John Kerry of Massachusetts are trying to add $3.1 billion to the program by attaching the money to a Defense Department spending bill.

''It is unthinkable that this administration would fail to have the emergency funds available to help families who need it the most,'' Sen. Kerry said in a statement, suggesting that Democrats will have a powerful issue for next year's elections if there is a shortfall of heating funds this winter.

A spokesman for the HHS, which added some emergency funds to the program during last year's heating season, said an increase in funding this year would be for Congress to decide. Paul Scofield, a spokesman for the House Appropriations Committee, said that ''we've always tried to keep this program funded,'' but added that, so far, it hasn't received any proposal to add money from the Bush administration.

''We've had a very mild winter in the last five or six years. If we get a real Montana winter this year, that's what's really got us spooked,'' says Jim Nolan, the heating program's director in Montana. Last year his program served 21,000 households, but about 85,000 are potentially eligible this year. With rising energy costs, he says, ''we could reach a tipping point and drive the number of applicants much higher.''

His department is lobbying for more assistance money from state electricity and gas utilities, which have a ''public purpose fund'' that earmarks 25 percent for energy assistance for the poor. This year, Mr. Nolan wants 70 percent of the money, which would take funding away from renewable-energy projects, such as solar and wind power.

Mr. Wolfe, who represents the state directors in Washington, says that without substantially more help from the federal government, the states and utilities will have to use a ''triage'' system to get families through the winter. In some states that will mean shifting more money to homes that use heating oil because oil distributors customarily won't deliver unless they are paid in advance, Mr. Wolfe says.

That means less money for utilities that supply natural gas. Those companies, on the other hand, are reluctant to cut off homes in the dead of winter. ''They'll get paid later,'' says Mr. Wolfe, who said legislatures in several states including Massachusetts, New York and some in the Midwest are pondering ways to supplement the federal funding.

The effects of a federal program stretched thin will be uneven, since some utilities have a much higher percentage of low-income customers than others. About three-fourths of the nation's home heating-oil customers are in New England.

In Montana, a state law forbids natural-gas companies from shutting off fuel to customers in the winter. But users of propane, a gas commonly used in rural areas, aren't protected.

Chemical companies and manufacturers that produce products using natural gas often have ''interruptible contracts,'' which means that if supplies run short, utilities will cut them off and send the gas to homeowners.

If there are frequent interruptions this winter, ''it's going to wash its way through the entire economy,'' predicts Charles Van Vlack, vice president of the American Chemistry Council, which represents 130 companies. ''Just saying industrial users are going to drop off of the [supply] system is a poor outcome. It's going to knock out jobs.''

The Federal Department of Energy has predicted that homeowners who use oil for heat and propane will spend 30 percent more this year than last, and natural gas users will spend 48 percent more. According to the National Energy Assistance Directors Association, heating costs for the average family using heating oil are projected to hit $1,666 for the upcoming winter. This represents an increase of $403 over last winter's prices and $714 over the winter heating season of 2003–2004.

For families using natural gas, prices are projected to hit $1,568, which is an increase of $611 over last year's price and $643 over 2003–2004. This is the largest increase in home heating prices in over 30 years. This is why our amendment is so very important.

Congress recently passed an Energy bill which is now law. In that bill, we authorized $5.1 billion for the LIHEAP program. My goal is to see that this is totally funded. We simply have to show that we meant what we asked for and totally fund the LIHEAP program. A total of $5.1 billion has already been authorized. All we are asking with this measure is to provide an additional $3.1 billion in emergency LIHEAP funding in additional to the $2 billion already requested by the President. Passage of this amendment to the Transportation/Treasury/Housing Appropriations bill is vital.

The facts are that LIHEAP is projected to help 5 million households nationwide this winter. But that's only about one-sixth of households across the country that qualify for the assistance. So this is a perennial fight we wage even when prices aren't as high as today. And now, that battle becomes all the more pivotal.

I want to thank Senators REED and COLLINS for their leadership on this amendment and I am proud to stand shoulder to shoulder with them to secure what is, in essence, literally life-or-death funding for our most vulnerable Americans. The cold weather won't wait and neither should we when it comes to helping citizens survive through the winter.

Mr. KENNEDY. Mr. President, with temperatures dropping, there are few more important duties than keeping our citizens safe and warm for the winter. Rising fuel prices give added urgency to our efforts to lend a hand to those who can't afford their heating bills.

Sadly, the gap between rich and poor has been widening in our society, especially in recent years. The number of persons living in poverty in the Nation has risen from 31 million in 2000 to 37 million today, a 19 percent increase during the Bush administration. Thirteen million children now live in poverty. Wages remain stagnant, while inflation inexorably sinks more and more families below the poverty line. The long-term unemployment rate is at historic highs. There is no excuse for America to continue to look the other way. Hurricane Katrina demonstrated the plight of minorities for all of us to see, for all the world to see. The ''silent slavery of poverty'' is not so silent any more.

For those in poverty, the American dream is a nightmare. Families stay awake at night worrying how to make ends meet. Parents wonder how they will feed their children and pay their bills.

Rising energy costs are a huge part of the problem. Significant numbers of citizens live with the constant threat of power shut-offs, because they can't pay their energy bills, and there's no relief in sight.

According to a recent report by the Energy Information Administration, the outlook for the coming winter is bleak. Home heating bills are likely to soar. Hurricanes Katrina and Rita have strained already-tight oil and natural gas production. According to the American Petroleum Institute, 20 percent of the Nation's refinery capacity is down or is restarting as a result of damage by both hurricanes.

On average, households heating primarily with natural gas will pay $350 more this winter for heat, an increase of an incredible 48 percent over last year. Those relying primarily on oil will pay $378 more, an increase of 32 percent.

These are not just abstract numbers. They represent huge burdens on real people. Just last week, Mayor Menino and I met with low-income seniors at the Curtis Hall Community Center in Massachusetts. They are scared that they won't be able to make ends meet this winter. They are worried about how they'll pay their high home heating bills. Predictions of a cold winter and sky-high fuel costs mean that the elderly, the disabled, and many others will be forced to make impossible choices between heating their homes and paying for food, or health care, or rent.

A Federal program is supposed to be available to help the poorest of the poor to avoid these unacceptable trade-offs. LIHEAP, the Low Income Home Energy Assistance Program, grants aid to low-income families who can't afford the steep cost of energy.

The number of households receiving this assistance has increased from 4 million in 2002 to 5 million this year, the highest level in ten years.

Ninety-four percent of LIHEAP households have at least one family member who is elderly, disabled, a child under the age of 18, or a single parent with a young child. 77 percent of LIHEAP recipients report an annual income at or below $20,000 and 61 percent of recipients have annual incomes at or below the poverty line.

Shameful, however, LIHEAP is not being given the funds needed to meet today's responsibilities. In fact, the President's budget funds the program at $2 billion which is almost the same today as when the program was created in 1981, the first year of the administration of President Ronald Reagan. Since then, heating oil prices have gone up 265 percent.

Meanwhile, demand for LIHEAP funding has increased. In Massachusetts, it serves 130,000 households, including 15,000 in Boston.

Eight thousand of the 12,000 fuel assistance applications sent out for this winter have already been returned, 1,500 more than this time last year.

With current funding, even those receiving LIHEAP assistance won't receive enough to last the entire winter.

In Massachusetts, one 71–year-old woman lives alone and keeps her thermostat set at 60 degrees to save money. She hopes the Federal Government will come through with more LIHEAP money before she runs out of ways to pay her heating bill. She says, ''I turn down the thermostat as low as I can and sometimes I turn it off and put on extra sweaters. I don't know how much longer I can keep doing this.''

Many families will struggle just to get their heat turned back on for the winter because they still owe money from last winter's bills.

Another example is a single mother who lives with her baby daughter. She's a nurse, but she lost her job in August 2004 has been relying on temporary jobs since then.

Her pay doesn't cover her bills, and her electricity has been cut off. She worries about how she can pay off her bills this winter.

It is wrong for us to let people like this suffer. So how does the Republican leadership in Congress respond? By cutting funds for essential low income programs.

In spite of Katrina, the administration and the House of Representatives continue to close their eyes to the long-term needs of the poor. Emergency aid was impossible for even the most hard-hearted Members of Congress to refuse. But as the spotlight fades it is back to poverty as usual. The House sent the Senate a continuing resolution which freezes funding for the LIHEAP program. But that funding obviously isn't enough. Nineteen percent of current LIHEAP recipients say they keep their home at a temperature they feel is unsafe or unhealthy. Eight percent report that their electricity or gas was shut off in the past year for nonpayment.

The continuing resolution also cut the Community Services Block Grant by 50 percent. These funds are used by many community action agencies to administer the LIHEAP assistance.

According to ABCD, a community action agency in Massachusetts whose neighborhood network handles the outreach and application process for LIHEAP, the cut in funding means that access to this critical survival resource will shrink by more than 70 percent. Up to 10,500 households, out of a current total of 15,000 recipients, may not get their benefits.

Those of us in Congress who care about this issue sent an urgent request to the President to increase the funds, but our request has gone unanswered.

We are here today to say that LIHEAP may not be on the administration's agenda, but it is on our agenda. That is why we are fighting so hard to increase LIHEAP funding. Senator KERRY and I offered an amendment on the DOD Appropriations bill to increase LIHEAP funding by $3.1 billion.

Almost every Democratic Senator voted for it, but the Republican Senators overwhelmingly opposed it and it was defeated. We will continue to raise this issue again and again and again, until our Nation's neediest families are fully protected this winter.

So I strongly support Senator REED's and Senator COLLINS' amendment to this appropriations bill, and I hope the Republican leadership will allow us to have an up or down vote on this amendment at some point during this debate.

Congress needs to stand up for the millions of Americans struggling to make ends meet. We need to tell low-income families across the country that we heard them, we care about them, and we don't intend to leave them shivering in the cold this winter.

LIHEAP is indispensable in filling that need. It is wrong for Congress to shortchange LIHEAP and the millions of families who need our help the most. Until every parent has a warm place to come home to every day, and every child has a warm bed to sleep in every night, our job is not done.

Mr. ENSIGN. Mr. President, I rise to speak to the amendment to enhance the Free File Alliance. The Free File Alliance is a partnership between the Internal Revenue Service and the private technology industry.

This voluntary program was created in 2002 after the IRS tried to create its

own tax preparation software and e-filing program at the taxpayers' expense. Such a program would have needlessly duplicated the resources and investments of the private sector. Instead, the Free File Alliance came into being, helping preserve voluntary compliance.

This Alliance provides free electronic tax preparation and e-filing services to lower income, disadvantaged and underserved taxpayers. In its first 3 years of existence, the Free File Alliance has donated some 10 million tax returns to American taxpayers and has helped significantly increase the number of e-filed tax returns. The success of this unique public-private partnership has been achieved at no cost to the taxpayers.

This alliance has benefited the American public. It has allowed the IRS to focus its resources and efforts on its congressionally authorized mission and objectives. The budget simply does not have room for waste or duplication, and the Free File public-private partnership has met an urgent need in the most cost-effective way possible.

There are long-standing program management issues that need to be corrected in the IRS oversight of the Free File program. For the first 3 years, the Service failed to make necessary management reforms. Congress has provided specific direction in terms of taxpayer protections, but the needed reforms have still not been put in place.

This amendment is fully consistent with all of the previous Congressional direction. It provides that the IRS and the Department of Treasury do not waiver from this direction. It will also ensure that the IRS does not provide all aspects of tax functions, including tax preparation services. That kind of conflict of interest cannot ever be permitted. The American people expect us to look out for their interests in such matters, to ensure fairness and balance in the system, and to protect their rights to voluntary compliance.

This amendment and accompanying report language should get the Free File program on track to achieve its intended purposes and objectives, and ensure that the IRS keeps its energies and resources focused on critical core missions, rather than spending precious public funds to try to expand them.

This is a basic good government, taxpayer-focused measure, and I ask my colleagues to join me in supporting this amendment.

NOTICE OF INTENT

Mr. DAYTON. Mr. President, in accordance with rule V of the standing rules of the Senate, I hereby give notice in writing of my intention to move to suspend Paragraph 4 of Rule XVI for the purpose of proposing to the Bill, H.R. 3058, the Transportation, Treasury, and Housing and Urban Development Appropriations Bill, the following amendment: No. 2143.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent the Senate turn to a period of morning business, with Senators permitted to speak therein for up to no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BREAST CANCER AWARENESS MONTH

Mr. REID. Mr. President, as we pause to observe Breast Cancer Awareness Month, I would like to focus on the need to study the causes of this frightening disease, including the possible link between breast cancer and the environment.

Women diagnosed with breast cancer inevitably all ask the same question: Why me?

The unfortunate truth in all too many instances is, we don't know. Less than 30 percent of breast cancers are explained by known risk factors.

We don't know if the environment plays a role in the development of breast cancer. Studies have explored the effect of isolated environmental factors such as diet, pesticides, and even electromagnetic fields. In most cases, the results have been inconclusive. Furthermore, there are many other factors that are suspected to play a role that have yet to be studied.

We must find answers. While there is much we don't know, it is clear that a better understanding of the role the environment plays in the development of breast cancer could help to improve our understanding of the causes of breast cancer and could lead to prevention strategies.

For several years now, I have worked to pass bipartisan legislation, The Breast Cancer and Environmental Research Act, which would give scientists the tools they need to better understand any link between breast cancer and the environment. The Breast Cancer and Environmental Research Act would dedicate $30 million a year for 5 years for the National Institute of Environmental Health Sciences, NIEHS, to award grants to study the relationship between environmental factors and breast cancer. Under a competitive, peer-reviewed grant-making process that involves patient advocates, the NIEHS Director would award grants for the development and operation of up to eight centers for the purpose of conducting multi-disciplinary research.

To date, there has been only a limited research investment to study the role of the environment in the development of breast cancer—but we are making progress. Over the past several years, I have worked with my colleagues on the Senate Appropriations Committee to include appropriations language that has allowed the NIEHS to award grants to four research centers to begin to study the prenatal-to-adult environmental exposures that may predispose a woman to breast cancer.

This is a promising step in the right direction, but it is only a down payment on the task at hand. Moreover, the research strategy for these grants does not follow the nationally focused, collaborative, and comprehensive model as outlined in the Breast Cancer and Environmental Research Act.

More research must be done to determine the impact of the environment on breast cancer. If we miss promising research opportunities because Congress has failed to act, millions of women and their families will face difficult questions about breast cancer . . . and we won't have the answers.

These women and their families deserve answers. That's why we must work together to pass this bill, which enjoys broad bipartisan support. I urge my colleagues to observe Breast Cancer Awareness Month and to support the quest for answers about this deadly disease by supporting the Breast Cancer and Environmental Research Act.

Mr. CORZINE. Mr. President, I rise today in observance of National Breast Cancer Awareness Month. Today, 3 million American women are living with this disease. In 2005, an additional 200,000 women are expected to be diagnosed with invasive breast cancer and over 40,000 will die from this disease. While in recent years we have seen significant advances in breast cancer research, scientists are still researching many questions that remain unanswered regarding the causes and prevention of this disease.

I am particularly concerned about the likely impact that environmental factors have in contributing to the prevalence of breast cancer. That is why I support the bipartisan Breast Cancer Environmental Research Act, S. 757, which would provide $30 million a year for 5 years for the development and operation of multi-institutional, multi-disciplinary research centers to study environmental factors potentially linked to breast cancer. There is a clear need for research. We owe it to breast cancer survivors and victims to pass this legislation.

Over the past several years, New Jersey has consistently ranked in the top 10 states in the Nation for breast cancer incidence and mortality. That is why I feel especially strongly about supporting further progress and future advancements in the fight against this awful disease that will only continue to cause suffering among American women if we fail to act.

In addition to passing S. 757, we must also increase funding for the National Institutes of Health, NIH, the National Cancer Institute, NCI, and the Centers for Disease Control, CDC, all of which have played a major role in the development of improved treatment. Despite the critical role these agencies play in developing tools to fight and prevent cancer, the President and Republican-led Congress have significantly underfunded breast cancer initiatives at NIH, NCI, and CDC. We need to do more.

We need a collaborative, comprehensive, national strategy to study the etiology of breast cancer. The Breast Cancer Environmental Research Act would accomplish this. I urge all of my colleagues to observe National Breast Cancer Awareness month by supporting this critical piece of legislation.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

John Solis was attacked and beaten after a gay-pride event in Brooklyn, NY on June 29, 2004. A dozen people shouted anti-gay slurs at Solis. When he turned to confront them they attacked him with baseball bats. Solis's wrist was broken and he was hit in the head. The police were slow to respond and ineffective.

I believe that the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

Mr. KOHL. Mr. President, I rise today, as Breast Cancer Awareness Month comes to a close, to urge my colleagues to join me in cosponsoring S. 757, the Breast Cancer Environmental Research Act.

It has long been believed that the environment plays some role in the development of breast cancer, but the extent of that role is not understood. Today, less than 30 percent of breast cancers are explained by known risk factors. There are studies exploring the effect of things like diet, pesticides, and electromagnetic fields on breast cancer incidence, but in most cases, these and many other environmental factors that are also suspected to play a role have not been fully investigated. We need a collaborative, comprehensive, national strategy to explore these issues.

The Breast Cancer Environmental Research Act would create a uniquely targeted research plan, similar in design to the incredibly efficient Department of Defense Peer Reviewed Breast Cancer Research Program. This bill would authorize $30 million a year for 5 years for the National Institute of Environmental Health Sciences, NIEHS, to award grants to study the relationship between environmental factors and breast cancer. Under a competitive, peer-reviewed grantmaking process that involves patient advocates, the NIEHS Director would award grants for the development and operation of up to eight centers for the purpose of conducting multidisciplinary research. It would require collaboration with community organizations in the area, including those that represent women with breast cancer, as an integral component of the centers. Inherent in its structure would be the kind of efficiency, and public accountability that has made an overwhelming number of my colleagues, as well as scientists and consumers, so supportive of the Department of Defense Breast Cancer Research Program.

In honor of Breast Cancer Awareness Month, I urge my colleagues to join me and continue to fight the war on breast cancer, and invest in getting the answers to eradicating this disease.

ADDITIONAL STATEMENTS

TRIBUTE TO BOB SPARBOE

• Mr. COLEMAN. Mr. President, I would like to pay tribute to a Minnesota hero and an American hero, Robert Sparboe, who passed away last week. If anyone around the world wanted to know why this is the greatest country in the world, I would tell them: Take a look at the life of Bob Sparboe. He is proof positive that the surest path to success is working hard in a free society.

Bob Sparboe found his success in the egg business. He went from a $5,000 investment after the Korean war to a $260 million operation employing 600 people in four States. If anyone in the sound of my voice has ever eaten an egg in a Midwestern restaurant, you are one of his customers. He has presided over 10 million hens laying over 2 billion eggs a year.

I often wonder from where Americans are getting their values. I sure hope it is not from overhyped rock stars, movie stars, and media creations. One of the values of our State of Minnesota is people are usually only one generation or one set of relations removed from the farm. We learn what farmers know; there are four seasons to life: planting, growing, harvesting, and resting. Not much of value is produced by people who cram. There are seasons and rhythms to life that must be understood and respected.

Bob was a wealth of wisdom. Here are a few of his gems collected from an article written honoring him last year:

The smartest thing you can do is hire someone who is more capable than you are.

It's better to have an average plan with superior execution than a superior plan with average execution.

A good leader creates leaders out of his followers. And a really good leader creates moral agents.

Leadership is about coping with change. Management is about coping with complexity.

You need to adopt the attitude that ''I will succeed, not only in spite of my limitations, but because of them.''

We get pretty full of ourselves in this city, imagining that we are running the world. But all the success our Nation achieves comes from the hard work, risk taking, and character of regular folks like Bob Sparboe, who achieve beyond their wildest dreams. His life was the American dream incarnate. We offer our condolences to his family and friends. And we are grateful to have had the privilege to know a person of such great character, drive and wisdom.

Mr. President, I ask that the following statement from former United States Senator Rudolph E. Boschwitz be printed in the RECORD.

The statement follows:

Picture a young Bob Sparboe, just back from the Army, his head full of dreams, eager to start his own business eager to make his first deal, and there he was young Bob sitting across the desk from the banker in Litchfield, Minnesota. Bankers always appear in this kind of story as a scowling, unfriendly, bunch of fellows. Bob never commented about that, but he needed $1,400 for just 21 days. Scowl or not, the banker must have had some doubts. The normal borrower didn't come in for a 21-day loan.

Bob eventually solved the problem by buying the bank—something he never would have believed that day many years ago. He got the loan. He made the deal. And he paid the banker back on time.

His head was full of dreams. And one of the endearing and enduring elements of Bob's life was that he never stopped dreaming. Ambition didn't fade as he aged. And he lived his ever-enlarging dreams to their fullest. Not only with regard to his business, but with his wonderful family as well.

Not everybody knew Bob and I would occasionally introduce him as a man who had six million chickens laying eggs and doing so with regularity. Not too long ago, Bob corrected me to say with quiet pride, ''It is now twelve million, Rudy.''

Bob and I both admired Ronald Reagan and Reagan would often say, ''If you give people enough freedom and opportunity, ordinary people will achieve extraordinary things.''

Bob was such a person Bob proved Reagan right. Bob recognized what the promise of America had given him and it filled his heart with a deep and abiding love for this great country. It was in that way—through the political process—that I met Bob and Deanna and other members of their family and the Sparboe Farms family as well.

Some may believe that our country's greatness was achieved by politicians sitting in Washington or St. Paul and indeed it is their names that fill the history books. But they were not the builders. Their actions preserved and enhanced the opportunities and freedoms, but the builders of democracy are and were the Bob Sparboes of our country.

People who had dreams. People who were willing to take risks—even for 21 days—and then never stopped dreaming and working full time to achieve those ever-enlarging dreams.

So Bob will be missed not only by a very loving family, but America will miss Bob as well.

We have lost not only a friend, a father, a husband and grandfather, but America has lost one of the finest builders of its greatness. One of its proudest sons.

Bob Sparboe—an extraordinary life, an extraordinary example of the wonders of democracy.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY DECLARED IN EXECUTIVE ORDER 12978 WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect beyond October 21, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on October 20, 2004 (69 Fed. Reg. 61733).

The circumstances that led to the declaration on October 21, 1995, of a national emergency have not been resolved. The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad. For these reasons, I have determined that it is necessary to maintain economic pressure on significant narcotics traffickers centered in Colombia by blocking their property and interests in property that are in the United States or within the possession or control of United States persons and by depriving them of access to the U.S. market and financial system.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 19, 2005*.

MESSAGE FROM THE HOUSE

At 2:42 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 177. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes.

H.R. 1409. An act to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes.

H.R. 3549. An act to designate the facility of the United States Postal Service located at 210 West 3rd Avenue in Warren, Pennsylvania, as the ''William F. Clinger, Jr. Post Office Building''.

H.R. 3830. An act to designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the ''U.S. Cleveland Post Office Building''.

H.R. 3853. An act to designate the facility of the United States Postal Service located at 208 South Main Street in Parkdale, Arkansas, as the Willie Vaughn Post Office.

The message also announced that the House agree to the amendment of the Senate to the bill H.R. 3971, an act to provide assistance to individuals and States affected by Hurricane Katrina, with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker of the House of Representatives has signed the following enrolled bills:

S. 156. An act to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

S. 55. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

The following enrolled bill, previously signed by the Speaker of the House, was signed today, October 19, 2005, by the President pro tempore (Mr. STEVENS).

H.R. 3765. An act to extend through March 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities and to expedite the processing of permits.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 177. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3549. An act to designate the facility of the United States Postal Service located at 210 West 3rd Avenue in Warren, Pennsylvania, as the ''William F. Clinger, Jr. Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3830. An act to designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the ''U.S. Cleveland Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3853. An act to designate the facility of the United States Postal Service located at 208 South Main Street in Parkdale Arkansas, as the Willie Vaughn Post Office; to the Committee on Homeland Security and Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 19, 2005, she had presented to the President of the United States the following enrolled bills:

S. 55. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

S. 156. An act to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4271. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled ''The Probationary Period: A Critical Assessment Opportunity''; to the Committee on Homeland Security and Governmental Affairs.

EC–4272. A communication from the Chairman, Federal Housing Finance Board, transmitting, pursuant to law, the Board's 2006 Annual Performance Budget; to the Committee on Homeland Security and Governmental Affairs.

EC–4273. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Retirement Credit for Certain Government Service Performed Abroad'' (RIN3206–AK84) received on October 11, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4274. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–170, ''Walter Reed Property Tax Exemption Reconfirmation Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4275. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–171, ''Prescription Drug Excessive Pricing Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4276. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–172, ''Brentwood Retail Center Real Property Tax Exemption Temporary Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4277. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–173, ''District of Columbia Bus Shelter Temporary Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–182, ''Dog Park Establishment Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–183, ''District of Columbia Emancipation Day Alternate Date Temporary Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–184, ''Income Withholding Transfer and Revision Temporary Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4281. A communication from the Assistant Secretary, Policy Management and Budget, Department of the Interior, transmitting, pursuant to law, the Department's annual report on grants streamlining and standardization; to the Committee on Energy and Natural Resources.

EC–4282. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Guidelines for Voluntary Greenhouse Gas Reporting'' (RIN1901–AB11) received on October 11, 2005; to the Committee on Energy and Natural Resources.

EC–4283. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Oil And Gas Leasing; Geothermal Resources Leasing; Coal Management; Management of Solid Minerals Other than Coal; Mineral Materials Disposal; and Mining Claims Under the General Mining Laws (Cost Recovery)'' (RIN1004–AC64) received on October 11, 2005; to the Committee on Energy and Natural Resources.

EC–4284. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report describing the efforts undertaken by the Department of Justice (DOJ), Office of Victims of Crime (OVC) during Fiscal Years 2003 and 2004; to the Committee on the Judiciary.

EC–4285. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Office of Justice Programs (OJP) Annual Report for Fiscal Years 2003 and 2004; to the Committee on the Judiciary.

EC–4286. A communication from the Chairman, United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled ''Federal Procurement After Adarand''; to the Committee on the Judiciary.

EC–4287. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of United States Attorney/Western District of Oklahoma, received on October 11, 2005; to the Committee on the Judiciary.

EC–4288. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of United States Attorney/Western District of Tennessee, received on October 11, 2005; to the Committee on the Judiciary.

EC–4289. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of United States Attorney/Southern District of West Virginia, received on October 11, 2005; to the Committee on the Judiciary.

EC–4290. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of First Assistant, received on October 11, 2005; to the Committee on the Judiciary.

EC–4291. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency declared in Executive Order 12978 of October 21, 1995, with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–4292. A communication from the President, Southwestern Indian Polytechnic Institute, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, a report relative to the extension of the Personnel Demonstration Project timeline expiration (October 31, 2005) for a period of two years; to the Committee on Indian Affairs.

EC–4293. A communication from the Secretary of Defense, transmitting, pursuant to law, a report in response to the Electromagnetic Pulse (EMP) Commission's Report; to the Committee on Armed Services.

EC–4294. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Vice Admiral Gerald L. Hoewing, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–4295. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Lieutenant General Michael A. Hough, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–4296. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of General Kevin P. Byrnes, United States Army, and the grade of lieutenant general on the retired list; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 206. A bill to designate the Ice Age Floods National Geologic Trail, and for other purposes (Rept. No. 109–144).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 242. A bill to establish 4 memorials to the Space Shuttle Columbia in the State of Texas (Rept. No. 109–145).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 584. A bill to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park (Rept. No. 109–146).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 652. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin (Rept. No. 109–147).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 895. A bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents (Rept. No. 109–148).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 955. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin (Rept. No. 109–149).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 958. A bill to amend the National Trails System Act to designate the Star–Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail (Rept. No. 109–150).

S. 1154. A bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes (Rept. No. 109–151).

S. 1238. A bill to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes (Rept. No. 109–152).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 1627. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware (Rept. No. 109–153).

H.R. 126. A bill to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore (Rept. No. 109–154).

H.R. 539. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System (Rept. No. 109–155).

H.R. 584. A bill to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior (Rept. No. 109–156).

H.R. 606. A bill to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California (Rept. No. 109–157).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*John O. Agwunobi, of Florida, to be an Assistant Secretary of Health and Human Services.

*Mark S. Schneider, of the District of Columbia, to be Commissioner of Education Statistics for a term expiring June 21, 2009.

*Bertha K. Madras, of Massachusetts, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

*Diane Rivers, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

*Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

*Jan Cellucci, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

*Christine M. Griffin, of Massachusetts, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2009.

*Naomi Churchill Earp, of Virginia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2010.

*Mark Hofflund, of Idaho, to be a Member of the National Council on the Arts for the remainder of the term expiring September 3, 2008.

*John O. Agwunobi, of Florida, to be Medical Director in the Regular Corps of the Public Health Service, subject to the qualifications therefore as provided by law and regulations.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 1887. A bill to authorize the conduct of small projects for the rehabilitation or removal of dams; to the Committee on Environment and Public Works.

By Mr. JEFFORDS (for himself and Mr. FEINGOLD):

S. 1888. A bill to provide for 2 programs to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HAGEL:

S. 1889. A bill to establish the Comprehensive Entitlement Reform Commission; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. MCCAIN):

S. 1890. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for certain fines, penalties, and other amounts; to the Committee on Finance.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. AKAKA, and Mr. INOUYE):

S. 1891. A bill to authorize the leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1892. A bill to amend Public Law 107–153 to modify a certain date; to the Committee on Indian Affairs.

By Mr. SANTORUM:

S. 1893. A bill to permit biomedical research corporations to engage in certain financings and other transactions without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Finance.

By Mr. INHOFE (for himself, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. CRAIG):

S. 1894. A bill to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies; considered and passed.

By Mr. ENSIGN (for himself, Mr. INHOFE, and Mr. DEMINT):

S. 1895. A bill to return meaning to the Fifth Amendment by limiting the power of eminent domain; to the Committee on Finance.

By Mr. SANTORUM:

S. 1896. A bill to permit access to Federal crime information databases by educational agencies for certain purposes; to the Committee on the Judiciary.

By Mr. CORZINE (for himself and Mr. DODD):

S. 1897. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal land, and to designate certain Federal land as Ancient forests, roadless areas, watershed protection areas, and special areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Mrs. BOXER, Mr. BURNS, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CORNYN, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. SALAZAR, Ms. SNOWE, Mr. SPECTER, and Ms. STABENOW):

S. Res. 280. A resolution supporting ''Lights On Afterschool'', a national celebration of after school programs; considered and agreed to.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 281. A resolution honoring and thanking James Patrick Rohan; considered and agreed to.

By Mr. BROWNBACK:

S. Con. Res. 59. A concurrent resolution recognizing the 40th anniversary of the White House Fellows Program; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 385

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 385, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

S. 513

At the request of Mr. GREGG, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 769

At the request of Ms. SNOWE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 1016

At the request of Mr. MARTINEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1016, a bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate the facilities, and for other purposes.

S. 1038

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1038, a bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on covered commodity base acres.

S. 1081

At the request of Mr. KYL, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1120

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from California (Mrs. FEINSTEIN)

were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1353

At the request of Mr. REID, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1405

At the request of Mr. NELSON of Nebraska, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Montana (Mr. BURNS) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1597

At the request of Mrs. CLINTON, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1597, a bill to award posthumously a Congressional gold medal to Constantino Brumidi.

S. 1700

At the request of Mr. COBURN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1706

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1706, a bill to amend the Internal Revenue Code of 1986 to provide that distributions from a section 401(k) plan or a section 403(b) contract shall not be includible in gross income to the extent used to pay long-term care insurance premiums.

S. 1735

At the request of Ms. CANTWELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1735, a bill to improve the Federal Trade Commissions's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. 1740

At the request of Mr. CRAPO, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1740, a bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies.

S. 1793

At the request of Mr. BINGAMAN, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1793, a bill to extend certain apportionments to primary airports.

S. 1795

At the request of Mr. JOHNSON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1795, a bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA).

S. 1813

At the request of Mr. CRAIG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1813, a bill to amend titles 10 and 38 of the United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors.

S. 1841

At the request of Mr. NELSON of Florida, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mrs. CLINTON) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1860

At the request of Mr. DOMENICI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1860, a bill to amend the Energy Policy Act of 2005 to improve energy production and reduce energy demand through improved use of reclaimed waters, and for other purposes.

S. 1873

At the request of Mr. BURR, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1873, a bill to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes.

S. 1880

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1880, a bill to amend the Public Health Service Act to enhance biodefense and pandemic preparedness activities, and for other purposes.

S. CON. RES. 46

At the request of Mr. BROWNBACK, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. Con. Res. 46, a concurrent resolution expressing the sense of the Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered and unregistered, as stipulated by the Russian Constitution and international standards.

S. RES. 180

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 180, a resolution supporting the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of the disease and to foster understanding of the impact of the disease on patients and their families.

S. RES. 273

At the request of Mr. COLEMAN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 273, a resolution expressing the sense of the Senate that the United Nations and other international organizations shall not be allowed to exercise control over the Internet.

AMENDMENT NO. 2063

At the request of Mr. KENNEDY, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 2063 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 2063 proposed to H.R. 3058, supra.

AMENDMENT NO. 2065

At the request of Mr. BINGAMAN, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 2065 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2070

At the request of Ms. COLLINS, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 2070 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2072

At the request of Mr. BOND, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 2072 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies

for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2074

At the request of Mr. SANTORUM, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of amendment No. 2074 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2075

At the request of Mr. FRIST, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Michigan (Ms. STABENOW) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 2075 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2077

At the request of Mr. REED, the names of the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. OBAMA), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 2077 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2078

At the request of Mr. DORGAN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 2078 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2108

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 2108 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 1887. A bill to authorize the conduct of small projects for the rehabilitation or removal of dams; to the Committee on Environment and Public Works.

Mr. KERRY. Mr. President, today I joined Senator KENNEDY, Representative FRANK, Governor Romney and Mayor Robert Nunes on a tour of the deteriorating dam in Taunton, MA. The dam buckled earlier this week under the pressure of heavy rain. Since the beginning of this month, Taunton has received 11½ inches of rain, with more than 7 inches of that from Friday through Sunday.

As of this morning, the city remained under a state of emergency and there was still a significant amount of water behind the Whittenton Pond Dam on the Mill River. In speaking with local officials, they expressed fear that a major break in the dam could send 6 feet of water surging through downtown Taunton, flooding businesses and destroying homes.

For now, the situation is under control but still extremely volatile. It appears we may have gotten lucky—but just because the waters are receding doesn't mean our work is through. Doing everything possible means the Federal Government has to give mayors and governors every tool they need to protect their communities.

Today, the Army Corps of Engineers can help in Taunton only because it's an emergency—and everyone who has been praying that the dam doesn't break knows just what an emergency this has been. But according to the law, it's only at that point of no return that the Corps can step in. The Army Corps of Engineers has no authority to try to prevent a situation like this. Before the water came pouring through and 2,000 people were evacuated from their homes, the Corps was powerless to fix this dam.

But it's not just on the Mill River—we have 3,000 privately-owned dams in Massachusetts. The Army Corps of Engineers shouldn't be handcuffed by bureaucratic red tape until we reach the point of a make-it-or-break-it crisis. If Hurricane Katrina taught us anything, it's that we can't let bureaucracy get in the way of preventing a pending disaster or responding to a looming threat.

For that reason, I am introducing a bill to give the Army Corps of Engineers the ability to intervene to repair privately-owned dams for the sake of public safety. That way, the Corps can help in the kind of effort Governor Romney is now undertaking to inspect and strengthen dams across the State. Senator KENNEDY is co-sponsoring this bill, and we will work together to make it law.

By Mr. JEFFORDS (for himself and Mr. FEINGOLD):

S. 1888. A bill to provide for 2 programs to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. JEFFORDS. Mr. President, today I am pleased to introduce the Military Family Support Act of 2005 with my colleague and friend from Wisconsin, Senator RUSS FEINGOLD. Our bill will help military families ease the stress caused by long-term absences due to deployments overseas.

I was contacted a few months back by a group of Vermonters looking for a way to help their coworkers with family in the Vermont National Guard. When a member of the armed forces is activated and deployed, family structures and daily functioning are severely affected. The day-to-day life of families is, in many cases, more than a one-person job. Any absence, especially absences of several months due to a deployment overseas, can be debilitating to family life. The stories of soldiers and their families from Enosburg Falls, VT, were told very poignantly in a piece reported by the Los Angeles Times. Enosburg and neighboring communities have contributed a disproportionately high number of National Guard troops to Operation Iraqi Freedom. Because of this, Enosburg's men and women have felt the pains of separation and long deployments more than most. Enosburg and surrounding towns and villages should be proud of the sacrifices made by their men and women in uniform and by those employers and family members who remained at home. Vermont is a place where neighbors help neighbors and I am proud of all the people throughout the state who have given so much support to Guard families.

The Military Family Support Act of 2005 is a straightforward bill that proposes two pilot programs. The first pilot program, administered by the Office of Personnel Management, OPM, would authorize Federal employees, who have been designated by a member of the Armed Forces as ''caregivers'', as defined by the Department of Defense, DOD, to use their leave in a more flexible manner. No new leave would be conferred to any employees. This bill simply makes leave already available more useful during stressful times for military families. The second pilot program would be established by the Department of Labor, DOL, to solicit businesses to voluntarily take part in a program to offer more accommodating leave to their employees. This bill does not include in its scope the Family Medical Leave Act, FMLA, and it does not require any private sector entity to participate. The goal of the Military Family Support Act is to make life a little easier for those who are already giving so much to our country and to their communities.

I ask unanimous consent that a May 2, 2005, article from the Los Angeles Times be printed in the RECORD. I also ask unanimous consent that the text of the Military Family Support Act of 2005 be printed in RECORD.

There being no objection, the materials were printed in the RECORD, as follows:

[From the Los Angeles Times, May 2, 2005]

A TOWN CALLED TO DUTY

(By Elizabeth Mehren)

FOR A RURAL VERMONT COMMUNITY, THE CONFLICT IN IRAQ HITS HOME. WITH ITS GUARDSMEN DEPLOYED, LOCALS BAND TOGETHER TO COVER THEIR ABSENCE

For four years, Matt Tracy spent his days pumping gas and repairing car engines at Mark LaRose's Texaco on Main Street. At night, the 33-year-old father of two studied law. He fended off frequent entreaties from military recruiters and held fast to his dream of becoming a litigator.

Then in December, LaRose was called up for active duty, along with the entire National Guard unit in this remote, rural town of 1,473. The deployment of 88 men in Company B, 1st Battalion, 172nd Armor Regiment, 42nd Infantry Division—better known as Bravo Company—has touched just about everyone in the area.

For Tracy, it meant his plans to exchange his wrench for an attache case went on hold.

''Right now I am just going to be a well-educated mechanic,'' he said, his voice devoid of any emotion beyond simple resignation. ''There is a point where you just have to accept it. What Mark has to do over there is much worse and much more of a sacrifice than whatever I have to give up here.''

Two years into the war, many Americans have become numb to the conflict in Iraq. Though the war is a nightly news event, it is far away and is beyond any individual's control. But in this small Vermont town, the war could not be more personal.

Town meetings now take place without Selectman Brian Westcom, who also is the road commissioner. Chris Beaudry, who works for the state highway department, was not around to clear the roads during an especially snowy winter. Firefighter Shawn Blake is gone along with LaRose, the service station owner who also is the volunteer fire chief.

Dennis Sheridan will not be coaching soccer at the junior high his son Tyler attends, and the school does not know who will replace him. Jimmy Gleason, a school bus driver who also maintained the fleet, is absent. The hunter safety class held twice a year by Eric Chates—who also works as the mechanic for the Enosburg Armory—has been canceled.

Each day brings new evidence of the men's absence: Wives attend social functions alone. Children send sports scores by e-mail to fathers who never missed a game until now. Elderly parents arrange rides to doctors' appointments because their sons are not there to drive them.

Businesses are stretched thin. Matt Tracy says his workload at LaRose Texaco has tripled. Tammie Randall, hired strictly to pump gas, keeps the books, handles the payroll and washes the service vehicles.

Five of the 98 employees at Blue Seal Feeds are gone. An electric candle glows in their honor at the main entrance to the grain and animal feed company, and five enormous yellow ribbons hang from a six-story silo.

''Everyone is working extra hard, and we have gone to a temp agency to try to fill the vacancies,'' said plant manager Paul Adamczak. ''It affects us because we have lost people with years of experience. You can't replace that. We have lost skill, not just employees.''

Adamczak's son, Mike, 33, was among the plant workers deployed.

Like the town, the father remains stoic. ''We're Vermonters,'' Adamczak said. ''We're not the great vocal communicators. This is something you think about, something you feel every day—but something you don't say anything about.''

Quietly, neighbors pitch in to help the families of those who have left. Donna Magnant, a first-grade teacher's aide whose husband, Raymond, and son Jon were deployed, said the snow on her driveway and walkway seemed to magically disappear all winter, as friends dropped by to shovel and plow.

The Magnants were engaged to be married when Raymond went to Vietnam with the Army almost 40 years ago, right out of high school. Both have lived in Enosburg Falls their entire lives.

''Neither one of us, I am sure, thought we would have to face something like this again,'' said Magnant, 58.

All 63 assigned members of Bravo Company are in Iraq. Of the 25 support soldiers attached to the unit, most are training at Camp Shelby, Miss., and will head to the Middle East soon; a handful found they had medical conditions that prevented them from serving overseas. The unit is scheduled to be gone for 18 months. Though women have belonged to the unit in the past, Bravo Company is all male at this time.

Bravo Company joined about 1,400 other members of the Vermont Guard who had been called up in recent months, nearly half the state's roster—making Vermont second only to Hawaii in the per capita call-up of guardsmen. The Hawaiian units, however, include people from other states. The Vermont guardsmen come from their home state.

The average age of the men deployed from Bravo Company is 40, but some are old enough to have grandchildren. At least a third have served in the Guard for 20 years or more.

Answering the call of their country is something people in Enosburg Falls do, not something they question. If there is opposition to the war, people keep it to themselves, deferring to the prevailing sentiment of patriotism.

''Most people around here would go if they were asked,'' said Steve Tracy, who works at Blue Seal Feeds. ''Basically, it is how we were brought up.''

Tracy, 55—no relation to Matt Tracy—has five family members in the Guard: two sons, a nephew, a son-in-law and a brother-in-law.

''It has just become our community's price for the way we live,'' said Adamczak, his boss. ''If you look at it any other way, you are kidding yourself. Nobody is going to protect our lifestyle if we don't do it. This is a necessary, continuing commitment.''

As teller Jeannie West cashes paychecks and processes mortgage payments at Merchants Bank on Main Street, she glances at a snapshot thumbtacked to her work station. It shows four men in camouflage—all family members who have been called up. The last to be summoned was her son Joshua, 22, who left college in nearby Burlington when he was sent to Iraq in January.

West, 49, considers it an honor when customers ask about her son, and tell her they are proud that a boy from Enosburg Falls is representing the United States in Iraq.

''I could not imagine living somewhere where people did not feel like this,'' she said.

Still, West said: ''The town seems sadder because everybody talks about the guys who are gone. Everyone here went to school with somebody in the Guard. Everybody knows someone. Everyone is connected, somehow, to someone who is over there.''

As their fathers and grandfathers did, many young people here enlist in the military straight out of high school. When they return home, they often join the Guard—signing up for extra income, and for an opportunity to continue to serve.

Edward Grossman, principal of Enosburg Falls High School, said support for the military effort was so strong that when he surveyed his 375 students about starting an ROTC program, half said they wanted one. The program will begin in the fall.

When Bravo Company was deployed from St. Albans in December, the students pressed so hard to see the ceremony that Grossman arranged for a live broadcast in the school auditorium. As cameras panned on the unit, Grossman, 55, heard squeals of recognition: ''There's my cousin!'' ''There's my brother!'' ''There's my dad!''

Enosburg Falls nestles in low hills in northwestern Vermont, 10 miles from the Canadian border. Most of the town was built in the 19th century, starting when the first dairy farm was settled in 1806. In a quarter-mile commercial district, Radio Shack and the Family Dollar store stand out as franchises among locally owned enterprises like Leon's Kitchen.

There is almost 100% employment. Three-quarters of the population graduates from high school, going on to earn an average annual income of $32,000. They are laborers at the feed company and a pulp mill. They drive trucks. They are mechanics, cashiers and office workers. Many work on dairy farms. Some have jobs at an IBM plant 45 minutes away.

Enosburg Falls is surrounded by villages, bringing the population of the region residents refer to as Enosburg to about 2,500.

The area's uncommon stability has helped it withstand the loss of the guardsmen. But there are signs everywhere that the men are not forgotten.

Yellow ribbons cling to door knockers, lampposts and bay windows. Nine houses on Duffy Hill, a 1½-mile road, are draped with blue-star banners, indicating a soldier on active duty. A nearby trailer boasts a sign: ''Gone to Iraq, Be Back in 18 Months.''

Jars filled with pennies, nickels and dimes sit on office counters. The coins pay for postage to send goodie boxes to the guardsmen. Cars and pickups sport magnets honoring Bravo Company. A busy local restaurant, the Abbey, offers 50% discounts to Guard families.

Every other Saturday, Lise Gates, 50, turns her arcade and bowling alley over to children of the guardsmen so their mothers can have a break. Gates, who has no relatives in Bravo Company, e-mails photographs of the kids at play to their dads.

They thank her and she wonders why.

''Why thank me, when they're the ones putting their lives on the line so we can be safe?'' Gates said. ''I think a majority of them wanted to go because they felt if they didn't, a war was going to happen right here. A lot of us here feel that way.''

The elementary school started its own support group for Guard children.

An English teacher at Enosburg Falls High assigned her students to write an essay comparing a recent graduate—who has served twice in Iraq—to Beowulf, a great Scandinavian warrior from the 6th century. The graduate, Ben Pathode, has two brothers at the school.

School secretary Debbie Shover's 22-year-old nephew is in Iraq. Shover, 50, said that since the guardsmen shipped out townspeople thought in terms of days, not months or years.

Enosburg Falls, she said, has unofficially adopted a new way of telling time. ''Now, today, another day we can mark off. And then, when they come home. Nothing in between.''

When a fire broke out on Main Street one cold night in February, the guardsmen's absence seemed more glaring than usual. The blaze demolished an entire block of eight apartments and five businesses—among them, a furniture company.

Firefighters converged from as far as Quebec. But LaRose, the volunteer fire captain, was missing. LaRose, 49, Bravo Company's command sergeant major, is known for his ability to take charge in an emergency. He joined the Guard almost 30 years ago.

''We put the fire out,'' said Town Administrator Harold Foote. ''But we really missed him.''

Foote, 49, said he was worried about what would happen when the spring floods started. In the past, the Guard unit stacked sandbags to halt onrushing waters. The June Dairy Festival—the town's biggest event of the year—also concerns him, because guardsmen traditionally manage the crowds and traffic.

''It sounds like small things, but it really confuses a community when you are used to relying on a group of guys like this,'' Foote said. ''And we haven't gone through a whole year's cycle yet.''

LaRose's gas station, with its big red Texaco star sign, is a local landmark—the only service station for miles where customers can still get their gas pumped and their windshields cleaned without getting out of their cars.

''Mark kept it like that, religiously,'' Matt Tracy said. He has vowed to maintain his boss' high service standards: ''It is our responsibility to keep it like that until he gets back.''

Tracy said he and his boss used to confer on minor problems and emergencies alike. Now he has no one to turn to. ''Mark was a leader,'' he said, ''not just with the National Guard or the fire department. He was my leader too.''

As he tries to make the right decisions, Tracy asks himself: What would Mark do?

Until now, Tracy said, he never realized how one man's absence could make such a difference.

S. 1888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Family Support Act of 2005''.

SEC. 2. PROGRAMS FOR USE OF LEAVE BY CAREGIVERS FOR FAMILY MEMBERS OF INDIVIDUALS PERFORMING CERTAIN MILITARY SERVICE.

(a) FEDERAL EMPLOYEES PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) CAREGIVER.—The term ''caregiver'' means an individual who—

(i) is an employee;

(ii) is at least 21 years of age; and

(iii) is capable of self care and care of children or other dependent family members of a qualified member of the Armed Forces.

(B) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by an employee as a caregiver while the individual who designated the caregiver under paragraph (3) remains a qualified member of the Armed Forces.

(C) EMPLOYEE.—The term ''employee'' has the meaning given under section 6331 of title 5, United States Code.

(D) FAMILY MEMBER.—The term ''family member'' includes—

(i) individuals for whom the qualified member of the Armed Forces provides medical, financial, and logistical support (such as housing, food, clothing, or transportation); and

(ii) children under the age of 19 years, elderly adults, persons with disabilities, and other persons who are unable to care for themselves in the absence of the qualified member of the Armed Forces.

(E) QUALIFIED MEMBER OF THE ARMED FORCES.—The term ''qualified member of the Armed Forces'' means—

(i) a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code, who has received notice to report to, or is serving on, active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code; or

(ii) a member of the Armed Forces on active duty who is eligible for hostile fire or imminent danger special pay under section 310 of title 37, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—The Office of Personnel Management shall establish a program to authorize a caregiver to—

(A) use any sick leave of that caregiver during a covered period of service in the same manner and to the same extent as annual leave is used; and

(B) use any leave available to that caregiver under subchapter III or IV of chapter 63 of title 5, United States Code, during a covered period of service as though that covered period of service is a medical emergency.

(3) DESIGNATION OF CAREGIVER.—

(A) IN GENERAL.—A qualified member of the Armed Forces shall submit a written designation of the individual who is the caregiver for any family member of that member of the Armed Forces during a covered period of service to the employing agency and the Office of Personnel Management.

(B) DESIGNATION OF SPOUSE.—Notwithstanding paragraph (1)(A)(ii), an individual less than 21 years of age may be designated as a caregiver if that individual is the spouse of the qualified member of the Armed Forces making the designation.

(4) USE OF CAREGIVER LEAVE.—Leave may only be used under this subsection for purposes directly relating to, or resulting from, the designation of an employee as a caregiver.

(5) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out this subsection.

(6) TERMINATION.—The program under this subsection shall terminate on December 31, 2007.

(b) VOLUNTARY PRIVATE SECTOR LEAVE PROGRAM.—

(1) DEFINITIONS.—

(A) CAREGIVER.—The term ''caregiver'' means an individual who—

(i) is an employee;

(ii) is at least 21 years of age; and

(iii) is capable of self care and care of children or other dependent family members of a qualified member of the Armed Forces.

(B) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by an employee as a caregiver while the individual who designated the caregiver under paragraph (4) remains a qualified member of the Armed Forces.

(C) EMPLOYEE.—The term ''employee'' means an employee of a business entity participating in the program under this subsection.

(D) FAMILY MEMBER.—The term ''family member'' includes—

(i) individuals for whom the qualified member of the Armed Forces provides medical, financial, and logistical support (such as housing, food, clothing, or transportation); and

(ii) children under the age of 19 years, elderly adults, persons with disabilities, and other persons who are unable to care for themselves in the absence of the qualified member of the Armed Forces.

(E) QUALIFIED MEMBER OF THE ARMED FORCES.—The term ''qualified member of the Armed Forces'' means—

(i) a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code, who has received notice to report to, or is serving on, active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code; or

(ii) a member of the Armed Forces on active duty who is eligible for hostile fire or imminent danger special pay under section 310 of title 37, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—

(A) IN GENERAL.—The Secretary of Labor shall establish a program to authorize employees of business entities described under paragraph (3) to use sick leave, or any other leave available to an employee, during a covered period of service in the same manner and to the same extent as annual leave (or its equivalent) is used.

(B) EXCEPTION.—Subparagraph (A) shall not apply to leave made available under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(3) VOLUNTARY BUSINESS PARTICIPATION.—The Secretary of Labor shall solicit business entities to voluntarily participate in the program under this subsection.

(4) DESIGNATION OF CAREGIVER.—

(A) IN GENERAL.—A qualified member of the Armed Forces shall submit a written designation of the individual who is the caregiver for any family member of that member of the Armed Forces during a covered period of service to the employing business entity.

(B) DESIGNATION OF SPOUSE.—Notwithstanding paragraph (1)(A)(ii), an individual less than 21 years of age may be designated as a caregiver if that individual is the spouse of the qualified member of the Armed Forces making the designation.

(5) USE OF CAREGIVER LEAVE.—Leave may only be used under this subsection for purposes directly relating to, or resulting from, the designation of an employee as a caregiver.

(6) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations to carry out this subsection.

(7) TERMINATION.—The program under this subsection shall terminate on December 31, 2007.

(c) GAO REPORT.—Not later than June 30, 2007, the Government Accountability Office shall submit a report to Congress on the programs under subsections (a) and (b) that includes—

(1) an evaluation of the success of each program; and

(2) recommendations for the continuance or termination of each program.

Mr. FEINGOLD. Mr. President, today I am pleased to join with the Senator from Vermont, Mr. JEFFORDS, in introducing legislation that would bring a small measure of relief to the families of our men and women in uniform as they seek to maintain a sense of normalcy here at home while their loved ones are deployed in service to our country. Our ongoing large-scale deployments in Iraq continue to demand so much from our men and women in uniform and their families. Passing this measure is the least we can do.

As part of the pre-deployment process, military personnel with dependent children or other dependent family members, such as elderly parents who require care, designate a caregiver for their dependents. This person will act in the deployed personnel's place to provide care for these family members during the period of deployment. The caregiver could be a spouse, parent, sibling, or other responsible adult who is capable of caring for, and willing to care for, the dependents in question.

The bill that we are introducing today, the Military Family Support Act, would create two programs to provide additional leave options for persons who have been designated as caregivers. The first program would require the Office of Personnel Management, OPM, to create a program under which Federal employees who are designated as caregivers could use accrued annual or sick leave, leave bank benefits, and other leave available to them under Title 5 for purposes directly relating to or resulting from their designation as a caregiver.

This bill would also require the Secretary of Labor to establish a voluntary program under which private sector companies would create similar programs for their employees and to solicit participation from private sector companies. I commend the many employers around the country for their understanding and support when an employee or a family member of an employee is called to active duty, and I hope that companies in Wisconsin and around the country will participate in this voluntary program.

In addition, our bill would require the Government Accountability Office to report to Congress with an evaluation of both the OPM program and the voluntary Department of Labor program. It is my hope that this evaluation will demonstrate the utility of such a leave program for designated caregivers and that these pilot programs could then be expanded to the designated caregivers of additional deployed military personnel.

This legislation builds on a measure that I introduced earlier this year, S. 798, the Military Families Leave Act. This bill would provide a similar benefit to military families by allowing eligible employees whose spouses, parents, sons, or daughters are military personnel who are serving on or called to active duty in support of a contingency operation to use their Family and Medical Leave Act, FMLA, benefits for issues directly relating to or resulting from that deployment. These instances could include preparation for deployment or additional responsibilities that family members take on as a result of a loved one's deployment, such as child care. I also introduced this bill during the 108th Congress.

Let me be clear, that the legislation we are introducing today does not amend the FMLA in any way. In fact, FMLA benefits are specifically exempted from the types of leave that can be used by designated caregivers for purposes directly related to or resulting from their caregiver responsibilities. While I believe that the FMLA could serve as the basis for providing additional leave opportunities for designated caregivers, opposition in some quarters to the original FMLA makes this a difficult proposition. I am proud to have been a cosponsor of this landmark law, and I believe that the FMLA continues to provide much-needed assistance to millions of workers around the country as they seek to care for their own serious health condition or that of a family member or as they welcome the birth or adoption of a child. I will continue to support this law and efforts to ensure that the vital benefits that it provides are not eroded.

I thank the Senator from Vermont, Mr. JEFFORDS, for his work on this important measure, and I urge all of our colleagues to support it.

By Mr. HAGEL:

S. 1889. A bill to establish the Comprehensive Entitlement Reform Commission; to the Committee on Finance.

Mr. HAGEL. Mr. President, today I introduce legislation to create a bi-partisan Entitlement Reform Commission. The Commission will review America's three major entitlement programs, Social Security, Medicare and Medicaid, and make comprehensive recommendations to Congress and the President that would sustain the solvency and stability of these three programs for future generations. Representative JOHN TANNER, D–TN, has joined me by introducing this legislation in the House of Representatives.

Social Security, Medicare and Medicaid have played a vital role for millions of Americans to cope with the financial burdens of retirement and health care costs. However, over the next 75 years these three programs represent a 42 trillion dollar unfunded commitment are on a trajectory that cannot be sustained. The Social Security Trust Fund faces a four trillion dollar unfunded commitment and will pay out more money than it takes in beginning in 2017; it will be exhausted in 2041. The Medicare Part A Trust Fund, hospital insurance, faces an 8.6 trillion dollar unfunded commitment and will be exhausted even sooner in 2020. The remainder of the 42 trillion dollar unfunded commitment includes 12.4 trillion dollars for Medicare Part B, supplementary medical insurance; 8.7 trillion dollars for Medicare Part D, prescription drugs; and 8.4 trillion dollars for Medicaid.

We have no idea where we are going to get the money to pay for these commitments. We must deal with these challenges today while we still have options so that our children will not be severely burdened with paying for huge entitlement commitments when they are competing in a far more competitive world than exists today. To leave future generations in this predicament would be an irresponsible and colossal failure of our generation.

Eight members will sit on the Commission established in my legislation. The House Speaker, House Minority Leader, Senate Majority Leader and Senate Minority Leader will each appoint two members. Members cannot be elected officials. The Commission will select two Co-Chairmen from among its members and hire an Executive Director.

The Commission must submit its final report to the President and Congress one year after the selection of the two Co-Chairmen of the Commission and the Executive Director. Congress will hold Committee hearings to review the Commission's recommendations. The bill authorizes 1.5 million dollars to carry out the Commission's tasks.

In March 2005, Federal Reserve Chairman Alan Greenspan urged Congress to act on modernizing entitlement programs, ''sooner rather than later.'' He warned that unless we act now to meet the huge unfunded commitments of our entitlement programs, there will be significant economic consequences for our nation. Dealing with this problem now means facing less dramatic and difficult choices down the road. The earlier we confront this reality, the more options we will have to pursue a wise and sustainable course of action.

I am 59 years old. I am at the front end of the ''baby boom'' generation. My daughter is 15 years old and my son is 13 years old. I don't want to fail their generation. That means addressing these entitlement programs now while we have time to do it in a responsible way. This is a defining debate for today's leaders. Doing nothing is irresponsible and cowardly. It is in every American's interest to deal with this challenge now. We have it in us to do what needs to be done. I invite my colleagues to cosponsor this legislation.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. MCCAIN):

S. 1890. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for certain fines, penalties, and other amounts; to the Committee on Finance.

Mr. BAUCUS. Mr. President, today my good friends Senators GRASSLEY and MCCAIN and I are introducing the ''Government Settlement Transparency Act of 2005'', a bill that will put a stop to tax deductions for fines and penalties paid by companies to government agencies in connection with civil settlements. Over the past several years, we have become increasingly concerned about the approval of various settlements that allow penalty payments made to the government in settlement of a violation or potential violation of the law to be tax deductible. Our concerns were heightened this week upon the release of a Government Accountability Office Report that confirmed many companies deduct these settlements notwithstanding the tax code's prohibition against deducting fines and penalties. This abuse shifts the tax burden from the wrongdoer onto the backs of the American people. This is unacceptable.

Many government agencies enter into these settlement agreements after investigating companies for violations of the law. Every year thousands of violations are resolved with settlements totaling tens of billions of dollars paid to the Federal Government. Civil settlements serve to punish past wrongdoing and to deter future wrongdoing without protracted court proceedings. For example, in the past several years settlements of various SEC investigations into violations or potential violations of the securities laws have been front and center in the news. Through civil investigations, Federal and State regulators are working hard to hold these firms responsible for their actions. With these efforts to achieve greater accountability in the business community and ensure the integrity of our financial markets, it is important that the rules governing the appropriate tax treatment of settlements be clear and adhered to by taxpayers.

Section 162(f) of the Internal Revenue Code provides that no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or penalty to a government for violation of any law. The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines and penalties as ordinary and necessary business expenses on the grounds that ''allowance of the deduction would frustrate sharply defined national or state policies proscribing the particular types of conduct evidenced by some governmental declaration thereof.'' Treasury regulations provide that a fine or penalty includes an amount paid in settlement of the taxpayer's actual or potential liability for a fine or penalty.

The legislation introduced today modifies the rules regarding the determination of whether payments are nondeductible payments of fines or penalties under section 162(f). In particular, the bill generally provides that amounts paid or incurred whether by suit, agreement, or otherwise, to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry in the potential violation of any law are nondeductible. The bill applies to deny a deduction for any such payments, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation.

An exception applies to payments that the taxpayer establishes are either restitution, including remediation of property, or amounts required to come into compliance with any law that was violated, and that are so identified in the settlement agreement. It is intended that a payment will be treated as restitution only if the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Restitution does not include reimbursement of government investigative or litigation costs, or payments to whistleblowers. It is intended that a payment will be treated as an amount required to come into compliance only if it directly corrects a violation with respect to a particular requirement of law that was under investigation. Amounts paid to educate consumers or customers about the risks of doing business with the taxpayer or about the field in which the taxpayer generally does business, and which are not specifically required under the law, are not deductible if required under a settlement agreement.

To ensure that companies do not take unallowable tax deductions for settlement payments, the bill requires government agencies to report to the IRS and to the taxpayer within thirty days of the settlement the amount of each settlement agreement, and to identify whether the payment is for fines, restitution, remediation or compliance, where the aggregate amount of the settlement is at least six hundred dollars, the Secretary of the Treasury will have the authority to adjust the amount and deadline for filing. Further, the IRS is encouraged to require taxpayers to separately identify such settlements on their tax returns.

The bill would be effective for amounts paid or incurred on or after the date of enactment unless the amounts were under binding order or agreement before such date.

I ask unanimous consent that the Joint Committee on Taxation Technical Description and the text of the bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS

PRESENT LAW

Under present law, no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or similar penalty to a government for the violation of any law (sec. 162(f)). The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines as ordinary and necessary business expenses on the grounds that ''allowance of the deduction would frustrate sharply defined national or State policies proscribing the particular types of conduct evidenced by some governmental declaration thereof.''

Treasury regulation section 1.162–21(b)(1) provides that a fine or similar penalty includes an amount: (1) Paid pursuant to conviction or a plea of guilty or nolo contendere for a crime (felony or misdemeanor) in a criminal proceeding; (2) paid as a civil penalty imposed by Federal, State, or local law, including additions to tax and additional amounts and assessable penalties imposed by chapter 68 of the Code; (3) paid in settlement of the taxpayer's actual or potential liability for a fine or penalty (civil or criminal); or (4) forfeited as collateral posted in connection with a proceeding which could result in imposition of such a fine or penalty. Treasury regulation section 1.162–21(b)(2) provides, among other things, that compensatory damages (including damages under section 4A of the Clayton Act (15 U.S.C. 15a), as amended) paid to a government do not constitute a fine or penalty.

REASONS FOR CHANEE

There is a lack of clarity and consistency under present law regarding when taxpayers may deduct payments made in settlement of government investigations of potential wrongdoing, as well as in situations where there has been a final determination of wrongdoing. If a taxpayer deducts payments made in settlement of an investigation of potential wrongdoing or as a result of a finding of wrongdoing, the publicly announced amount of the settlement payment does not reflect the true after-tax penalty on the taxpayer. Allowing a deduction for such payments in effect shifts a portion of the penalty to the Federal government and to the public.

DESCRIPTION OF PROPOSAL

The bill modifies the rules regarding the determination whether payments are nondeductible payments of fines or penalties under section 162(f). In particular, the bill generally provides that amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry into the potential violation of any law are nondeductible under any provision of the income tax provisions. The bill applies to deny a deduction for any such payments, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation. An exception applies to payments that the taxpayer establishes are either restitution (including remediation of property), or amounts required to come into compliance with any law that was violated or involved in the investigation or inquiry, and that are identified in the court order or settlement as restitution, remediation, or required to come into compliance. The IRS remains free to challenge the characterization of an amount so identified; however, no deduction is allowed unless the identification is made.

An exception also applies to any amount paid or incurred as taxes due.

The bill is intended to apply only where a government (or other entity treated in a

manner similar to a government under the amendment) is a complainant or investigator with respect to the violation or potential violation of any law.

It is intended that a payment will be treated as restitution (including remediation of property) only if substantially all of the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Thus, a payment to or with respect to a class substantially broader than the specific persons or property that were actually harmed (e.g., to a class including similarly situated persons or property) does not qualify as restitution or included remediation of property. Restitution and included remediation of property is limited to the amount that bears a substantial quantitative relationship to the harm caused by the past conduct or actions of the taxpayer that resulted in the payment in question. If the party harmed is a government or other entity, then restitution and included remediation of property includes payment to such harmed government or entity, provided the payment bears a substantial quantitative relationship to the harm. However, restitution or included remediation of property does not include reimbursement of government investigative or litigation costs, or payments to whistleblowers.

It is intended that a payment will be treated as an amount required to come into compliance only if it directly corrects a violation with respect to a particular requirement of law that was under investigation. For example, if the law requires a particular emission standard to be met or particular machinery to be used, amounts required to be paid under a settlement agreement to meet the required standard or install the machinery are deductible to the extent otherwise allowed. Similarly, if the law requires certain practices and procedures to be followed and a settlement agreement requires the taxpayer to pay to establish such practices or procedures, such amounts would be deductible. However, amounts paid for other purposes not directly correcting a violation of law are not deductible. For example, amounts paid to bring other machinery that is already in compliance up to a standard higher than required by the law, or to create other benefits (such as a park or other action not previously required by law), are not deductible if required under a settlement agreement. Similarly, amounts paid to educate consumers or customers about the risks of doing business with the taxpayer or about the field in which the taxpayer does business generally, which education efforts are not specifically required under the law, are not deductible if required under a settlement agreement.

The bill requires government agencies to report to the IRS and to the taxpayer the amount of each settlement agreement or order entered where the aggregate amount required to be paid or incurred to or at the direction of the government under such settlement agreements and orders with respect to the violation, investigation, or inquiry is least $600 (or such other amount as may be specified by the Secretary of the Treasury as necessary to ensure the efficient administration of the Internal Revenue laws). The reports must be made within 30 days of entering the settlement agreement, or such other time as may be required by Secretary. The report must separately identify any amounts that are restitution or remediation of property, or correction of noncompliance.

The IRS is encouraged in addition to require taxpayers to identify separately on their tax returns the amounts of any such settlements with respect to which reporting is required under the bill, including separate identification of the nondeductible amount and of any amount deductible as restitution, remediation, or required to correct noncompliance.

Amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, any self-regulatory entity that regulates a financial market or other market that is a qualified board or exchange under section 1256(g)(7), and that is authorized to impose sanctions (e.g., the National Association of Securities Dealers) are likewise subject to the provision if paid in relation to a violation, or investigation or inquiry into a potential violation, of any law (or any rule or other requirement of such entity). To the extent provided in regulations, amounts paid or incurred to, or at the direction of, any other nongovernmental entity that exercises self-regulatory powers as part of performing an essential governmental function are similarly subject to the provision. The exception for payments that the taxpayer establishes are paid or incurred for restitution, remediation of property, or coming into compliance and that are identified as such in the order or settlement agreement likewise applies in these cases. The requirement of reporting to the IRS and the taxpayer also applies in these cases.

No inference is intended as to the treatment of payments as nondeductible fines or penalties under present law. In particular, the bill is not intended to limit the scope of present-law section 162(f) or the regulations thereunder.

EFFECTIVE DATE

The bill is effective for amounts paid or incurred on or after the date of enactment; however the bill does not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Any order or agreement requiring court approval is not a binding order or agreement for this purpose unless such approval was obtained before the date of enactment.

S. 1890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Settlement Transparency Act of 2005''.

SEC. 2. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1892. A bill to amend Public Law 107–153 to modify a certain date; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am introducing a measure with Senator DORGAN to amend P.L. 107–153, which deems that certain reports prepared for the Department of the Interior relating to Indian tribal trust accounts were received by the tribes no earlier than December 31, 1999. The intent of this law was to eliminate contentions that the tribes received notice of potential claims against the United States prior to that date for purposes of the statute of limitations. This amendment changes the date set forth in P.L. 107–153 to December 31, 2005, in order to facilitate discussions and negotiations between the Indian tribes and the United States regarding potential claims without pressure on the tribes to file lawsuits out of concern that the statute of limitations will run out on their claims. It is my understanding that this measure has support both among the Indian tribes and the administration.

By Mr. SANTORUM:

S. 1893. A bill to permit biomedical research corporations to engage in certain financings and other transactions without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today I rise to introduce the Biotechnology Future Investment Expansion Act of 2005.

Biotechnology has resulted in some of the most important innovations of our time. Substantive research in agriculture, bioengineering, and medicine have given Americans a better life. From the discovery of DNA to the creation of synthetic insulin, biotechnology has improved the standard of living and has saved many lives. It is important that we encourage continued research to further advances in the biotech field.

The biotech industry is one of the most research-intensive industries in the world. The industry spent $17.9 billion on research and development in 2003 alone. The overwhelming majority of biotech companies engaged in this research are not profitable in the early years of development. Such companies may accumulate net operating losses NOLs, without earning income, for a decade or more. Unfortunately, a provision of the tax code, (Section 382), operates to severely limit the utilization of NOLs by many such biotech companies. Often, these limitations cause NOLs to expire before they can be used by these companies.

This legislation will modify the application of Section 382 to the biotech industry, with the goal of increasing that important sector's ability to leverage capital into high-tech, high-risk cutting-edge research. Specifically, the legislation will ensure that neither new investment into biotech companies nor a business-driven merger of two biotech loss companies will trigger the section 382 NOL limitation. Neither of these changes runs counter to the longstanding tax policy behind Section 382 of preventing corporations, from NOL trafficking.

My home State of Pennsylvania is a national leader in biotechnology innovation, and the biosciences are a significant economic driver in Pennsylvania's economy. Pennsylvania's support of the industry has made it a policy leader for the biosciences. More than 125 biopharmaceutical companies and 2,000 bioscience-related companies make Pennsylvania their home. For example, Philadelphia's BioAdvance focuses on bioinformatics, bio-pharmaceuticals and medical devices, and clinical trials. The Pittsburgh Life Sciences Greenhouse focuses on drug discovery tools, tissue and organ research, medical devices, and therapeutic strategies for neuropsychiatric disorders. The Central Pennsylvania Life Sciences Greenhouse is pursuing drug design and delivery systems, biomedical devices, and bio-nanotechnology. These and many other companies in Pennsylvania are developing groundbreaking therapies, devices, diagnostics and vaccines for once untreatable diseases and debilitating conditions, providing hope for millions of patients.

Additionally, top-of-the-line bioscience research takes place in Pennsylvania's academic institutions. Pennsylvania researchers garnered $1.3 billion in funding through the I.— National Institutes of Health in 2003, making the Commonwealth fourth in the Nation. And the University of Pennsylvania and the University of Pittsburgh are in the top 10 nationally for NIH funding.

We must encourage continued research and the funding that supports it. Biotech companies are pursuing high-risk research projects to find cures for many deadly and debilitating diseases that afflict humanity. From cancer to AIDS, and from Alzheimer's Disease to Parkinson' Disease, the biotechnology industry will be in the center of finding cures to these life-ending illnesses. My legislation offers a little more support to an industry we depend upon. I encourage my colleagues to join me in supporting this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Biotechnology Future Investment Expansion Act of 2005''.

SEC. 2. RESTORING THE BENEFIT OF TAX INCENTIVES FOR BIOMEDICAL RESEARCH AND CLINICAL TRIALS.

(a) IN GENERAL.—Subsection (l) of section 382 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) CERTAIN FINANCING TRANSACTIONS OF BIOMEDICAL RESEARCH CORPORATIONS.—

''(A) GENERAL RULE.—In the case of a biomedical research corporation, any owner shift involving a 5-percent shareholder which occurs as the result of a qualified investment or qualified transaction during the testing period shall be treated for purposes of this section (other than this paragraph) as occurring before the testing period.

''(B) BIOMEDICAL RESEARCH CORPORATION.—For purposes of this paragraph, the term 'biomedical research corporation' means, with respect to any qualified investment, any domestic corporation subject to tax under this subchapter which is not in bankruptcy and which, as of the time of the closing on such investment—

''(i) holds the rights to a drug or biologic for which an investigational new drug application is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act, and

''(ii) certifies that, as of the time of such closing, the drug or biologic is, or in the 3 month period before and after such closing has been, under study pursuant to an investigational use exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act.

''(C) QUALIFIED INVESTMENT.—For purposes of this paragraph, the term 'qualified investment' means any acquisition of stock by a shareholder (who after such acquisition is a less than 50 percent shareholder) in a biomedical research corporation if such stock is acquired at its original issue (directly or through an underwriter) solely in exchange for cash.

''(D) QUALIFIED TRANSACTION.—For purposes of this paragraph, the term 'qualified transaction' means any acquisition of stock in a biomedical research corporation if such stock is acquired as part of a merger or acquisition by another biomedical research corporation that is a loss corporation. If the

acquiring loss corporation is a member of a controlled group of corporations under section 1563(a), the group must be a loss group.

''(E) STOCK ISSUED IN EXCHANGE FOR CONVERTIBLE DEBT.—For purposes of this paragraph, stock issued by a biomedical research corporation in exchange for its convertible debt (or stock deemed under this section to be so issued) shall be treated as stock acquired by the debt holder at its original issue and solely in exchange for cash if the debt holder previously acquired the convertible debt at its original issue and solely in exchange for cash. In the case of an acquisition of stock in exchange for convertible debt, the requirements of this paragraph shall be applied separately as of the time of closing on the investment in convertible debt, and as of the time of actual conversion (or deemed conversion under this section) of the convertible debt for stock.

''(F) BIOMEDICAL RESEARCH CORPORATION MUST MEET 3-YEAR EXPENDITURE AND CONTINUITY OF BUSINESS TESTS WITH RESPECT TO ANY QUALIFIED INVESTMENT.—

''(i) IN GENERAL.—This paragraph shall not apply to a qualified investment or transaction in a biomedical research corporation unless such corporation meets the expenditure test for each year of the measuring period and the continuity of business test.

''(ii) MEASURING PERIOD.—For purposes of this subparagraph, the term 'measuring period' means, with respect to any qualified investment or transaction, the taxable year of the biomedical research corporation in which the closing on the investment occurs, and the 2 preceding taxable years.

''(iii) EXPENDITURE TEST.—A biomedical research corporation meets the expenditure test of this subparagraph for a taxable year if at least 35 percent of its expenditures for the taxable year (including, for purposes of this clause, payments in redemption of its stock) are expenditures described in section 41(b) or clinical and preclinical expenditures.

''(iv) CONTINUITY OF BUSINESS TEST.—A biomedical research corporation meets the continuity of business test if, at all times during the 2-year period following a qualified investment or transaction, such corporation continues the business enterprise of such corporation.

''(G) EFFECT OF CORPORATE REDEMPTIONS ON QUALIFIED INVESTMENTS.—Rules similar to the rules of section 1202(c)(3) shall apply to qualified investments under this paragraph except that 'stock acquired in a qualified investment' shall be substituted for 'qualified small business stock' each place it appears therein.

''(H) EFFECT OF OTHER TRANSACTIONS BETWEEN BIOMEDICAL RESEARCH CORPORATIONS AND INVESTORS MAKING QUALIFIED INVESTMENTS.—

''(i) IN GENERAL.—If, during the 2-year period beginning 1 year before any qualified investment, the biomedical research corporation engages in another transaction with a member of its qualified investment group and such biomedical research corporation receives any consideration other than cash in such transaction, there shall be a presumption that stock received in the otherwise qualified investment transaction was not received solely in exchange for cash.

''(ii) QUALIFIED INVESTMENT GROUP.—For purposes of this subparagraph, the term 'qualified investment group' means, with respect to any qualified investment, one or more persons who receive stock issued in exchange for the qualified investment, and any person related to such persons within the meaning of section 267(b) or section 707(b).

''(iii) REGULATIONS.—The Secretary shall promulgate regulations exempting from this subparagraph transactions which are customary in the bioscience research industry and are of minor value relative to the amount of the qualified investment.

''(I) REGULATIONS.—The Secretary may issue such regulations as may be appropriate to achieve the purposes of this paragraph, to prevent abuse, and to provide for treatment of biomedical research corporations under sections 383 and 384 that is consistent with the purposes of this paragraph.''.

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

By Mr. ENSIGN (for himself, Mr. INHOFE, and Mr. DEMINT):

S. 1895. A bill to return meaning to the fifth amendment by limiting the power of eminent domain; to the Committee on Finance.

Mr. ENSIGN. Mr. President, I rise today on behalf of every person in America who owns property and to speak on behalf of everyone working toward the American dream of homeownership. That dream is being threatened today, and that threat comes from our own government and court system. Since the birth of our Nation, property ownership has been a fundamental and guarded right. The Founding Fathers went to great lengths to protect citizens from the heavy and greedy hand of government. This is why the Bill of Rights includes the fifth amendment's ''takings clause.''

Unfortunately, 200 years of upholding property rights was not enough to protect some Americans from the excessive use of government power. In Kelo v. City of New London, the U.S. Supreme Court ruled 5 to 4 that economic development was a sufficient reason to take a person's property. In this case, the city of New London, CT wanted to tear down private homes and redevelop private property into an industrial complex. It is important to understand that the city did not want to tear down these homes because the neighborhood was blighted. The city did not want to redevelop the property because the homes were being used by drug dealers. The homeowners were middle-class families living in a middle-class neighborhood. So why would the city want to redevelop these properties? City officials believed this would create jobs and increase the city's tax revenue. When the homeowners refused to sell to the city, the city began condemnation proceedings. The homeowners sued the city and argued that this ''taking'' violated their fifth amendment rights.

The fifth amendment states that private property cannot be taken except for a ''public use'' and only then if the owners are justly compensated. The owners believed, as I do, that creating jobs and increasing tax revenue is not a public use. The Supreme Court, despite the plain meaning of the fifth amendment, ruled against the homeowners. As bad as that is, it gets worse for these homeowners. The city of New London is demanding that the homeowners, those who fought to protect their fifth amendment rights, must now pay back rent. For the Kelo family, that means $57,000 in rent owed to the city.

This cannot be what the Founding Fathers intended when they adopted the Bill of Rights. The Kelo decision has highlighted a serious problem with how government has taken more power at the expense of the people. The Supreme Court's decision favors big corporations and persons with political clout over homeowners and regular people.

Congress is partly to blame. Congress has created incentives for government to redevelop property in a never-ending quest for more and more tax dollars. New London, CT is the perfect example of these incentives. To Americans, the Kelo decision means that no matter how hard you work and no matter how hard you save, government can come in and take it all away from you. No person's home will be safe if Congress does not act to restore the fifth amendment. The property owners who lost their homes as a result of the Kelo decision paid their Federal taxes, paid their State taxes, and paid their local taxes. They played by the rules. Ironically, it was these taxes that made it possible for their government to steal their homes. As a result, Congress must step in to limit the use of Federal dollars.

Just as our country's Founders sought to protect private property by amending the Constitution, I feel Congress must act to protect those rights. That is why I am introducing the Private Property Rights Protection Act, legislation to protect and preserve the American dream. This bill will curb government power and return it where it belongs, to the people.

By Mr. CORZINE (for himself and Mr. DODD):

S. 1897. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal land, and to designate certain Federal land as Ancient forests, roadless areas, watershed protection areas, and special areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today I am introducing the Act to Save America's Forests. The purpose of this legislation is to protect our national forests from needless clearcutting, safeguard our roadless areas, and preserve the last remaining stands of ancient forests in this country.

At one time there was approximately billions of acres of forest on the land that is now the United States. Sadly, less than 10 percent of the original unlogged forests of the United States remain, and in the lower 48 States only 1 percent is in a form large enough to support all the native plants and animals. The 1 percent left is under constant threat, so we must act as soon as possible to keep us from losing these precious forest lands forever.

Our national forests also are under attack from clearcutting. The process

of clearcutting, or removing huge groups of trees at once, devastates wildlife habitats, creates a blighted landscape, increases soil erosion, and degrades water quality. Over a quarter-million acres of our national forests were clearcut in the past decade alone. The process of clearcutting annihilates vibrant, ecologically diverse forests are usually replaced, if at all, with a single species tree farm. This is irresponsible forest management that ignores ecology and concentrates solely on flawed economics.

This bill utilizes a scientific approach to forest management. By banning all logging operations in roadless areas, ancient forests, and forests that have extraordinary biological, scenic, or recreational values, this bill seeks to protect our Nation's most precious and fragile ecosystems. In addition, this bill bans clearcutting in our national forests except in specific cases where complete removal of nonnative invasive tree species is ecologically necessary.

While the bill bans certain logging, it does not ban all logging in our national forests. Instead, it allows a method of logging called selection management, which cuts individual trees instead of the whole forest, leaving a healthy, biologically diverse forest ecosystem. This method reduces the devastation to the environment because it retains natural forest structure and function, focuses on long-term rather than short-term management, and allows new growth without completely destroying old growth. It is also less disturbing to people who enjoy the scenic beauty of our forests. Not only is selection management more environmentally friendly, but it also can be sustainable and even profitable, as demonstrated by a number of private forests around the country.

This legislation emphasizes biodiversity and sustainable management, allowing ecologically sound logging practices in some of our national forestland and fully protecting the rest. I am proud to reintroduce this legislation in the 109th Congress, which will be a major step in the protection of America's forests. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1897

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 ''Act to Save America's Forests''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—LAND MANAGEMENT

Sec. 101. Committee of scientists.
Sec. 102. Continuous forest inventory.
Sec. 103. Administration and management.
Sec. 104. Conforming amendments.

TITLE II—PROTECTION FOR ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, AND SPECIAL AREAS

Sec. 201. Findings.
Sec. 202. Definitions.
Sec. 203. Designation of special areas.
Sec. 204. Restrictions on management activities in Ancient forests, roadless areas, watershed protection areas, and special areas.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.
Sec. 302. Effect on existing contracts.
Sec. 303. Wilderness Act exclusion.

TITLE IV—GIANT SEQUOIA NATIONAL MONUMENT

Sec. 401. Findings.
Sec. 402. Definitions.
Sec. 403. Additions to Giant Sequoia National Monument.
Sec. 404. Transfer of administrative jurisdiction over the Giant Sequoia National Monument.
Sec. 405. Additions to the Sierra National Forest and Inyo National Forest.
Sec. 406. Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Federal agencies that permit clearcutting and other forms of even-age logging operations include the Forest Service, the United States Fish and Wildlife Service, and the Bureau of Land Management;

(2) clearcutting and other forms of even-age logging operations cause substantial alterations in native biodiversity by—

(A) emphasizing the production of a limited number of commercial species, and often only a single species, of trees on each site;

(B) manipulating the vegetation toward greater relative density of the commercial species;

(C) suppressing competing species; and

(D) requiring the planting, on numerous sites, of a commercial strain of the species that reduces the relative diversity of other genetic strains of the species that were traditionally located on the same sites;

(3) clearcutting and other forms of even-age logging operations—

(A) frequently lead to the death of immobile species and the very young of mobile species of wildlife; and

(B) deplete the habitat of deep-forest species of animals, including endangered species and threatened species;

(4)(A) clearcutting and other forms of even-age logging operations—

(i) expose the soil to direct sunlight and the impact of precipitation;

(ii) disrupt the soil surface;

(iii) compact organic layers; and

(iv) disrupt the run-off restraining capabilities of roots and low-lying vegetation, resulting in soil erosion, the leaching of nutrients, a reduction in the biological content of soil, and the impoverishment of soil; and

(B) all of the consequences described in subparagraph (A) have a long-range deleterious effect on all land resources, including timber production;

(5) clearcutting and other forms of even-age logging operations aggravate global climate change by—

(A) decreasing the capability of the soil to retain carbon; and

(B) during the critical periods of felling and site preparation, reducing the capacity of the biomass to process and to store carbon, with a resultant loss of stored carbon to the atmosphere;

(6) clearcutting and other forms of even-age logging operations render soil increasingly sensitive to acid deposits by causing a decline of soil wood and coarse woody debris;

(7) a decline of solid wood and coarse woody debris reduces the capacity of soil to retain water and nutrients, which in turn increases soil heat and impairs soil's ability to maintain protective carbon compounds on the soil surface;

(8) clearcutting and other forms of even-age logging operations result in—

(A) increased stream sedimentation and the silting of stream bottoms;

(B) a decline in water quality;

(C) the impairment of life cycles and spawning processes of aquatic life from benthic organisms to large fish; and

(D) as a result of the effects described in subparagraphs (A) through (C), a depletion of the sport and commercial fisheries of the United States;

(9) clearcutting and other forms of even-age management of Federal forests disrupt natural disturbance regimes that are critical to ecosystem function;

(10) clearcutting and other forms of even-age logging operations increase harmful edge effects, including—

(A) blowdowns;

(B) invasions by weed species; and

(C) heavier losses to predators and competitors;

(11) by reducing the number of deep, canopied, variegated, permanent forests, clearcutting and other forms of even-age logging operations—

(A) limit areas where the public can satisfy an expanding need for recreation; and

(B) decrease the recreational value of land;

(12) clearcutting and other forms of even-age logging operations replace forests described in paragraph (11) with a surplus of clearings that grow into relatively impenetrable thickets of saplings, and then into monoculture tree plantations;

(13) because of the harmful and, in many cases, irreversible, damage to forest species and forest ecosystems caused by logging of Ancient and roadless forests, clearcutting, and other forms of even-age management, it is important that these practices be halted based on the precautionary principle;

(14) human beings depend on native biological resources, including plants, animals, and micro-organisms—

(A) for food, medicine, shelter, and other important products; and

(B) as a source of intellectual and scientific knowledge, recreation, and aesthetic pleasure;

(15) alteration of native biodiversity has serious consequences for human welfare, as the United States irretrievably loses resources for research and agricultural, medicinal, and industrial development;

(16) alteration of biodiversity in Federal forests adversely affects the functions of ecosystems and critical ecosystem processes that—

(A) moderate climate;

(B) govern nutrient cycles and soil conservation and production;

(C) control pests and diseases; and

(D) degrade wastes and pollutants;

(17)(A) clearcutting and other forms of even-age management operations have significant deleterious effects on native biodiversity, by reducing habitat and food for cavity-nesting birds and insectivores such as the 3-toed woodpecker and hairy woodpecker and for neotropical migratory bird species; and

(B) the reduction in habitat and food supply could disrupt the lines of dependency among species and their food resources and thereby jeopardize critical ecosystem function, including limiting outbreaks of destructive insect populations; for example—

(i) the 3-toed woodpecker requires clumped snags in spruce-fir forests, and 99 percent of

its winter diet is composed of insects, primarily spruce beetles; and

(ii) a 3-toed woodpecker can consume as much as 26 percent of the brood of an endemic population of spruce bark beetle and reduce brood survival of the population by 70 to 79 percent;

(18) the harm of clearcutting and other forms of even-age logging operations on the natural resources of the United States and the quality of life of the people of the United States is substantial, severe, and avoidable;

(19) by substituting selection management, as required by this Act, for clearcutting and other forms of even-age logging operations, the Federal agencies involved with those logging operations would substantially reduce devastation to the environment and improve the quality of life of the people of the United States;

(20) selection management—

(A) retains natural forest structure and function;

(B) focuses on long-term rather than short-term management;

(C) works with, rather than against, the checks and balances inherent in natural processes; and

(D) permits the normal, natural processes in a forest to allow the forest to go through the natural stages of succession to develop a forest with old growth ecological functions;

(21) by protecting native biodiversity, as required by this Act, Federal agencies would maintain vital native ecosystems and improve the quality of life of the people of the United States;

(22) selection logging—

(A) is more job intensive, and therefore provides more employment than clearcutting and other forms of even-age logging operations to manage the same quantity of timber production; and

(B) produces higher quality sawlogs than clearcutting and other forms of even-age logging operations; and

(23) the judicial remedies available to enforce Federal forest laws are inadequate, and should be strengthened by providing for injunctions, declaratory judgments, statutory damages, and reasonable costs of suit.

(b) PURPOSE.—The purpose of this Act is to conserve native biodiversity and protect all native ecosystems on all Federal land against losses that result from—

(1) clearcutting and other forms of even-age logging operations; and

(2) logging in Ancient forests, roadless areas, watershed protection areas, and special areas.

TITLE I—LAND MANAGEMENT

SEC. 101. COMMITTEE OF SCIENTISTS.

Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) is amended by striking subsection (h) and inserting the following:

''(h) COMMITTEE OF SCIENTISTS.—

''(1) IN GENERAL.—To carry out subsection (g), the Secretary shall appoint a committee composed of scientists—

''(A) who are not officers or employees of the Forest Service, of any other public entity, or of any entity engaged in whole or in part in the production of wood or wood products;

''(B) not more than one-third of whom have contracted with or represented any entity described in subparagraph (A) during the 5-year period ending on the date of the proposed appointment to the committee; and

''(C) not more than one-third of whom are foresters.

''(2) QUALIFICATIONS OF FORESTERS.—A forester appointed to the committee shall be an individual with—

''(A) extensive training in conservation biology; and

''(B) field experience in selection management.

''(3) DUTIES.—The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures and all other issues involving forestry and native biodiversity to promote an effective interdisciplinary approach to forestry and native biodiversity.

''(4) TERMINATION.—The committee shall terminate on the date that is 10 years after the date of enactment of the Act to Save America's Forests.''

SEC. 102. CONTINUOUS FOREST INVENTORY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, each of the Chief of the Forest Service, the Director of the United States Fish and Wildlife Service, and the Director of the Bureau of Land Management (referred to individually as an ''agency head'') shall prepare a continuous inventory of forest land administered by those agency heads, respectively.

(b) REQUIREMENTS.—A continuous forest inventory shall constitute a long-term monitoring and inventory system that—

(1) is contiguous throughout affected Federal forest land; and

(2) is based on a set of permanent plots that are inventoried every 10 years to—

(A) assess the impacts that human activities are having on management of the ecosystem;

(B) gauge—

(i) floristic and faunistic diversity, abundance, and dominance; and

(ii) economic and social value; and

(C) monitor changes in the age, structure, and diversity of species of trees and other vegetation.

(c) DECENNIAL INVENTORIES.—Each decennial inventory under subsection (b)(2) shall be completed not more than 60 days after the date on which the inventory is begun.

(d) NATIONAL ACADEMY OF SCIENCES.—In preparing a continuous forest inventory, an agency head may use the services of the National Academy of Sciences to—

(1) develop a system for the continuous forest inventory by which certain guilds or indicator species are measured; and

(2) identify any changes to the continuous forest inventory that are necessary to ensure that the continuous forest inventory is consistent with the most accurate scientific methods.

(e) WHOLE-SYSTEM MEASURES.—At the end of each forest planning period, an agency head shall document whole-system measures that will be taken as a result of a decennial inventory.

(f) PUBLIC AVAILABILITY.—Results of a continuous forest inventory shall be made available to the public without charge.

SEC. 103. ADMINISTRATION AND MANAGEMENT.

The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding after section 6 (16 U.S.C. 1604) the following:

''SEC. 6A. CONSERVATION OF NATIVE BIODIVERSITY; SELECTION LOGGING; PROHIBITION OF CLEARCUTTING.

''(a) APPLICABILITY.—This section applies to the administration and management of—

''(1) National Forest System land, under this Act;

''(2) Federal land, under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

''(3) National Wildlife Refuge System land, under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

''(b) NATIVE BIODIVERSITY IN FORESTED AREAS.—The Secretary shall provide for the conservation or restoration of native biodiversity in each stand and each watershed throughout each forested area, except during the extraction stage of authorized mineral development or during authorized construction projects, in which cases the Secretary shall conserve native biodiversity to the maximum extent practicable.

''(c) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—

''(1) DEFINITIONS.—In this subsection:

''(A) AGE DIVERSITY.—The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

''(B) BASAL AREA.—The term 'basal area' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

''(C) CLEARCUTTING.—The term 'clearcutting' means an even-age logging operation that removes all of the trees over a considerable portion of a stand at 1 time.

''(D) CONSERVATION.—The term 'conservation' means protective measures for maintaining native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as practicable in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

''(E) EVEN-AGE LOGGING OPERATION.—

''(i) IN GENERAL.—The term 'even-age logging operation' means a logging activity that—

''(I) creates a clearing or opening that exceeds ⅕ acre;

''(II) creates a stand in which the majority of trees are within 10 years of the same age; or

''(III) within a period of 30 years, cuts or removes more than the lesser of—

''(aa) the growth of the basal area of all tree species (not including a tree of a non-native invasive tree species or an invasive plantation species) in a stand; or

''(bb) 20 percent of the basal area of a stand.

''(ii) INCLUSION.—The term 'even-age logging operation' includes the application of clearcutting, high grading, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

''(iii) EXCLUSION.—The term 'even-age logging operation' does not include the cutting or removal of—

''(I) a tree of a non-native invasive tree species; or

''(II) an invasive plantation species, if native longleaf pine are planted in place of the removed invasive plantation species.

''(F) GENETIC DIVERSITY.—The term 'genetic diversity' means the differences in genetic composition within and among populations of a species.

''(G) HIGH GRADING.—The term 'high grading' means the removal of only the larger or more commercially valuable trees in a stand, resulting in an alteration in the natural range of age diversity or species diversity in the stand.

''(H) INVASIVE PLANTATION SPECIES.—The term 'invasive plantation species' means a loblolly pine or slash pine that was planted or managed by the Forest Service or any other Federal agency as part of an even-aged monoculture tree plantation.

''(I) NATIVE BIODIVERSITY.—

''(i) IN GENERAL.—The term 'native biodiversity' means—

''(I) the full range of variety and variability within and among living organisms; and

''(II) the ecological complexes in which the living organisms would have occurred (including naturally occurring disturbance regimes) in the absence of significant human impact.

''(ii) INCLUSIONS.—The term 'native biodiversity' includes diversity—

''(I) within a species (including genetic diversity, species diversity, and age diversity);

''(II) within a community of species;

''(III) between communities of species;

''(IV) within a discrete area, such as a watershed;

''(V) along a vertical plane from ground to sky, including application of the plane to all the other types of diversity; and

''(VI) along the horizontal plane of the land surface, including application of the plane to all the other types of diversity.

''(J) NON-NATIVE INVASIVE TREE SPECIES.—

''(i) IN GENERAL.—The term 'non-native invasive tree species' means a species of tree not native to North America.

''(ii) INCLUSIONS.—The term 'non-native invasive tree species' includes—

''(I) Australian pine (Casaurina equisetifolia);

''(II) Brazilian pepper (Schinus terebinthifolius);

''(III) Common buckthorn (Rhamnus cathartica);

''(IV) Eucalyptus (Eucalyptus globulus);

''(V) Glossy buckthorn (Rhamnus frangula);

''(VI) Melaleuca (Melaleuca quinquenervia);

''(VII) Norway maple (Acer platanoides);

''(VIII) Princess tree (Paulownia tomentosa);

''(IX) Salt cedar (Tamarix species);

''(X) Silk tree (Albizia julibrissin);

''(XI) Strawberry guava (Psidium cattleianum);

''(XII) Tree-of-heaven (Ailanthus altissima);

''(XIII) Velvet tree (Miconia calvescens); and

''(XIV) White poplar (Populus alba).

''(K) SEED-TREE CUT.—The term 'seed-tree cut' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

''(L) SELECTION MANAGEMENT.—

''(i) IN GENERAL.—The term 'selection management' means a method of logging that emphasizes the periodic, individual selection and removal of varying size and age classes of the weaker, nondominant cull trees in a stand and leaves uncut the stronger dominant trees to survive and reproduce, in a manner that works with natural forest processes and—

''(I) ensures the maintenance of continuous high forest cover where high forest cover naturally occurs;

''(II) ensures the maintenance or natural regeneration of all native species in a stand;

''(III) ensures the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products including clean water, rich soil, and native plants and wildlife; and

''(IV) ensures that some dead trees, standing and downed, shall be left in each stand where selection logging occurs, to fulfill their necessary ecological functions in the forest ecosystem, including providing elemental and organic nutrients to the soil, water retention, and habitat for endemic insect species that provide the primary food source for predators (including various species of amphibians and birds, such as cavity nesting woodpeckers).

''(ii) EXCLUSION.—

''(I) IN GENERAL.—Subject to subclause (II), the term 'selection management' does not include an even-age logging operation.

''(II) FELLING AGE; NATIVE BIODIVERSITY.—Subclause (I) does not—

''(aa) establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut; or

''(bb) limit native biodiversity to that which occurs within the context of a 150-year projected felling age.

''(M) SHELTERWOOD CUT.—The term 'shelterwood cut' means an even-age logging operation that leaves—

''(i) a minority of the stand (larger than a seed-tree cut) as a seed source; or

''(ii) a protection cover remaining standing for any period of time.

''(N) SPECIES DIVERSITY.—The term 'species diversity' means the richness and variety of native species in a particular location.

''(O) STAND.—The term 'stand' means a biological community of trees on land described in subsection (a), comprised of not more than 100 contiguous acres with sufficient identity of 1 or more characteristics (including location, topography, and dominant species) to be managed as a unit.

''(P) TIMBER PURPOSE.—

''(i) IN GENERAL.—The term 'timber purpose' means the use, sale, lease, or distribution of trees, including the felling of trees or portions of trees.

''(ii) EXCEPTION.—The term 'timber purpose' does not include the felling of trees or portions of trees to create land space for a Federal administrative structure.

''(Q) WITHIN-COMMUNITY DIVERSITY.—The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in various physical settings of the biosphere and distinct locations.

''(2) PROHIBITION OF CLEARCUTTING AND OTHER FORMS OF EVEN-AGE LOGGING OPERATIONS.—No clearcutting or other form of even-age logging operation shall be permitted in any stand or watershed.

''(3) MANAGEMENT OF NATIVE BIODIVERSITY.—On each stand on which an even-age logging operation has been conducted on or before the date of enactment of this section, and on each deforested area managed for timber purposes on or before the date of enactment of this section, excluding areas occupied by existing buildings, the Secretary shall—

''(A) prescribe a shift to selection management; or

''(B) cease managing the stand for timber purposes, in which case the Secretary shall—

''(i) undertake an active restoration of the native biodiversity of the stand; or

''(ii) permit the stand to regain native biodiversity.

''(4) ENFORCEMENT.—

''(A) FINDING.—Congress finds that all people of the United States are injured by actions on land to which subsection (g)(3)(B) and this subsection applies.

''(B) PURPOSE.—The purpose of this paragraph is to foster the widest and most effective possible enforcement of subsection (g)(3)(B) and this subsection.

''(C) FEDERAL ENFORCEMENT.—The Secretary of Agriculture, the Secretary of the Interior, and the Attorney General shall enforce subsection (g)(3)(B) and this subsection against any person that violates 1 or more of those provisions.

''(D) CITIZEN SUITS.—

''(i) IN GENERAL.—A citizen harmed by a violation of subsection (g)(3)(B) or this subsection may bring a civil action in United States district court for a declaratory judgment, a temporary restraining order, an injunction, statutory damages, or other remedy against any alleged violator, including the United States.

''(ii) JUDICIAL RELIEF.—If a district court of the United States determines that a violation of subsection (g)(3)(B) or this subsection has occurred, the district court—

''(I) shall impose a damage award of not less than $5,000;

''(II) may issue 1 or more injunctions or other forms of equitable relief; and

''(III) shall award to the plaintiffs reasonable costs of bringing the action, including attorney's fees, witness fees, and other necessary expenses.

''(iii) STANDARD OF PROOF.—The standard of proof in all actions under this subparagraph shall be the preponderance of the evidence.

''(iv) TRIAL.—A trial for any action under this subsection shall be de novo.

''(E) PAYMENT OF DAMAGES.—

''(i) NON-FEDERAL VIOLATOR.—A damage award under subparagraph (D)(ii) shall be paid to the Treasury by a non-Federal violator or violators designated by the court.

''(ii) FEDERAL VIOLATOR.—

''(I) IN GENERAL.—Not later than 40 days after the date on which judgment is rendered, a damage award under subparagraph (D)(ii) for which the United States is determined to be liable shall be paid from the Treasury, as provided under section 1304 of title 31, United States Code, to the person or persons designated to receive the damage award.

''(II) USE OF DAMAGE AWARD.—A damage award described under subclause (I) shall be used by the recipient to protect or restore native biodiversity on Federal land or on land adjoining Federal land.

''(III) COURT COSTS.—Any award of costs of litigation and any award of attorney fees shall be paid by a Federal violator not later than 40 days after the date on which judgment is rendered.

''(F) WAIVER OF SOVEREIGN IMMUNITY.—

''(i) IN GENERAL.—The United States (including agents and employees of the United States) waives its sovereign immunity in all respects in all actions under subsection (g)(3)(B) and this subsection.

''(ii) NOTICE.—No notice is required to enforce this subsection.''.

SEC. 104. CONFORMING AMENDMENTS.

Section 6(g)(3) of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1604(g)(3)) is amended—

(1) in subparagraph (D), by inserting ''and'' after the semicolon at the end;

(2) in subparagraph (E), by striking ''; and'' and inserting a period; and

(3) by striking subparagraph (F).

TITLE II—PROTECTION FOR ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, AND SPECIAL AREAS

SEC. 201. FINDINGS.

Congress finds that—

(1) unfragmented forests on Federal land, unique and valuable assets to the general public, are damaged by extractive logging;

(2) less than 10 percent of the original unlogged forests of the United States remain, and the vast majority of the remnants of the original forests of the United States are located on Federal land;

(3) large, unfragmented forest watersheds provide high-quality water supplies for drinking, agriculture, industry, and fisheries across the United States;

(4) the most recent scientific studies indicate that several thousand species of plants and animals are dependent on large, unfragmented forest areas;

(5) many neotropical migratory songbird species are experiencing documented broad-scale population declines and require large, unfragmented forests to ensure their survival;

(6) destruction of large-scale natural forests has resulted in a tremendous loss of jobs

in the fishing, hunting, tourism, recreation, and guiding industries, and has adversely affected sustainable nontimber forest products industries such as the collection of mushrooms and herbs;

(7) extractive logging programs on Federal land are carried out at enormous financial costs to the Treasury and taxpayers of the United States;

(8) Ancient forests continue to be threatened by logging and deforestation and are rapidly disappearing;

(9) Ancient forests help regulate atmospheric balance, maintain biodiversity, and provide valuable scientific opportunity for monitoring the health of the planet;

(10) prohibiting extractive logging in the Ancient forests would create the best conditions for ensuring stable, well distributed, and viable populations of the northern spotted owl, marbled murrelet, American marten, and other vertebrates, invertebrates, vascular plants, and nonvascular plants associated with those forests;

(11) prohibiting extractive logging in the Ancient forests would create the best conditions for ensuring stable, well distributed, and viable populations of anadromous salmonids, resident salmonids, and bull trout;

(12) roadless areas are de facto wilderness that provide wildlife habitat and recreation;

(13) large unfragmented forests, contained in large part on roadless areas on Federal land, are among the last refuges for native animal and plant biodiversity, and are vital to maintaining viable populations of threatened, endangered, sensitive, and rare species;

(14) roads cause soil erosion, disrupt wildlife migration, and allow nonnative species of plants and animals to invade native forests;

(15) the mortality and reproduction patterns of forest dwelling animal populations are adversely affected by traffic-related fatalities that accompany roads;

(16) the exceptional recreational, biological, scientific, or economic assets of certain special forested areas on Federal land are valuable to the public of the United States and are damaged by extractive logging;

(17) in order to gauge the effectiveness and appropriateness of current and future resource management activities, and to continue to broaden and develop our understanding of silvicultural practices, many special forested areas need to remain in a natural, unmanaged state to serve as scientifically established baseline control forests;

(18) certain special forested areas provide habitat for the survival and recovery of endangered and threatened plant and wildlife species, such as grizzly bears, spotted owls, Pacific salmon, and Pacific yew, that are harmed by extractive logging;

(19) many special forested areas on Federal land are considered sacred sites by native peoples; and

(20) as a legacy for the enjoyment, knowledge, and well-being of future generations, provisions must be made for the protection and perpetuation of the Ancient forests, roadless areas, watershed protection areas, and special areas of the United States.

SEC. 202. DEFINITIONS.

In this title:

(1) ANCIENT FOREST.—The term ''Ancient forest'' means—

(A) the northwest Ancient forests, including—

(i) Federal land identified as late-successional reserves, riparian reserves, and key watersheds under the heading ''Alternative 1'' of the report entitled ''Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, Vol. I.'', and dated February 1994; and

(ii) Federal land identified by the term ''medium and large conifer multi-storied, canopied forests'' as defined in the report described in clause (i);

(B) the eastside Cascade Ancient forests, including—

(i) Federal land identified as ''Late-Succession/Old-growth Forest (LS/OG)'' depicted on maps for the Colville National Forest, Fremont National Forest, Malheur National Forest, Ochoco National Forest, Umatilla National Forest, Wallowa-Whitman National Forest, and Winema National Forest in the report entitled ''Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington'', prepared by the Eastside Forests Scientific Society Panel (The Wildlife Society, Technical Review 94–2, August 1994);

(ii) Federal land east of the Cascade crest in the States of Oregon and Washington, defined as ''late successional and old-growth forests'' in the general definition on page 28 of the report described in clause (i); and

(iii) Federal land classified as ''Oregon Aquatic Diversity Areas'', as defined in the report described in clause (i); and

(C) the Sierra Nevada Ancient forests, including—

(i) Federal land identified as ''Areas of Late-Successional Emphasis (ALSE)'' in the report entitled, ''Final Report to Congress: Status of the Sierra Nevada'', prepared by the Sierra Nevada Ecosystem Project (Wildland Resources Center Report #40, University of California, Davis, 1996/97);

(ii) Federal land identified as ''Late-Succession/Old-Growth Forests Rank 3, 4 or 5'' in the report described in clause (i); and

(iii) Federal land identified as ''Potential Aquatic Diversity Management Areas'' on the map on page 1497 of Volume II of the report described in clause (i).

(2) EXTRACTIVE LOGGING.—The term ''extractive logging'' means the felling or removal of any trees from Federal forest land for any purpose.

(3) IMPROVED ROAD.—The term ''improved road'' means any road maintained for travel by standard passenger type vehicles.

(4) ROADLESS AREA.—The term ''roadless area'' means a contiguous parcel of Federal land that is—

(A) devoid of improved roads, except as provided in subparagraph (B); and

(B) composed of—

(i) at least 1,000 acres west of the 100th meridian (with up to ½ mile of improved roads per 1,000 acres);

(ii) at least 1,000 acres east of the 100th meridian (with up to ½ mile of improved roads per 1,000 acres); or

(iii) less than 1,000 acres, but share a border that is not an improved road with a wilderness area, primitive area, or wilderness study area.

(5) SECRETARY.—The term ''Secretary'', with respect to any Federal land in an Ancient forest, roadless area, watershed protection area, or special area, means the head of the Federal agency having jurisdiction over the Federal land.

(6) SPECIAL AREA.—The term ''special area'' means an area of Federal forest land designated under section 3 that may not meet the definition of an Ancient forest, roadless area, or watershed protection area, but that—

(A) possesses outstanding biological, scenic, recreational, or cultural values; and

(B) is exemplary on a regional, national, or international level.

(7) WATERSHED PROTECTION AREA.—The term ''watershed protection area'' means Federal land that extends—

(A) 300 feet from both sides of the active stream channel of any permanently flowing stream or river;

(B) 100 feet from both sides of the active channel of any intermittent, ephemeral, or seasonal stream, or any other nonpermanently flowing drainage feature having a definable channel and evidence of annual scour or deposition of flow-related debris;

(C) 300 feet from the edge of the maximum level of any natural lake or pond; or

(D) 150 feet from the edge of the maximum level of a constructed lake, pond, or reservoir, or a natural or constructed wetland.

SEC. 203. DESIGNATION OF SPECIAL AREAS.

(a) IN GENERAL.—

(1) FINDING.—A special area shall possess at least 1 of the values described in paragraphs (2) through (5).

(2) BIOLOGICAL VALUES.—The biological values of a special area may include the presence of—

(A) threatened species or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery of endangered species or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;

(H) commercial fisheries; and

(I) sources of clean water such as key watersheds.

(3) SCENIC VALUES.—The scenic values of a special area may include the presence of—

(A) unusual geological formations;

(B) designated wild and scenic rivers;

(C) unique biota; and

(D) vistas.

(4) RECREATIONAL VALUES.—The recreational values of a special area may include the presence of—

(A) designated national recreational trails or recreational areas;

(B) areas that are popular for such recreation and sporting activities as—

(i) hunting;

(ii) fishing;

(iii) camping;

(iv) hiking;

(v) aquatic recreation; and

(vi) winter recreation;

(C) Federal land in regions that are underserved in terms of recreation;

(D) land adjacent to designated wilderness areas; and

(E) solitude.

(5) CULTURAL VALUES.—The cultural values of a special area may include the presence of—

(A) sites with Native American religious significance; and

(B) historic or prehistoric archaeological sites eligible for listing on the national historic register.

(b) SIZE VARIATION.—A special area may vary in size to encompass the outstanding biological, scenic, recreational, or cultural value or values to be protected.

(c) DESIGNATION OF SPECIAL AREAS.—There are designated the following special areas, which shall be subject to the management restrictions specified in section 204:

(1) ALABAMA.—

(A) SIPSEY WILDERNESS HEADWATERS.—Certain land in the Bankhead National Forest, Bankhead Ranger District, in Lawrence County, totaling approximately 22,000 acres, located directly north and upstream of the Sipsey Wilderness, and directly south of Forest Road 213.

(B) BRUSHY FORK.—Certain land in the Bankhead National Forest, Bankhead Ranger District, in Lawrence County, totaling approximately 6,200 acres, bounded by Forest Roads 249, 254, and 246 and Alabama Highway 33.

(C) REBECCA MOUNTAIN.—Certain land in the Talladega National Forest, Talladega Ranger District, Talladega County and Clay County, totaling approximately 9,000 acres, comprised of all Talladega National Forest lands south of Forest Roads 621 and 621 B, east of Alabama Highway 48/77 and County Highway 308, and north of the power transmission line.

(D) AUGUSTA MINE RIDGE.—Certain land in the Talladega National Forest, Shoal Creek Ranger District, Cherokee County and Cleburn County, totaling approximately 6,000 acres, and comprised of all Talladega National Forest land north of the Chief Ladiga Rail Trail.

(E) MAYFIELD CREEK.—Certain land in the Talladega National Forest, Oakmulgee Ranger District, in Rail County, totaling approximately 4,000 acres, and bounded by Forest Roads 731, 723, 718, and 718A.

(F) BEAR BAY.—Certain land in the Conecuh National Forest, Conecuh District, in Covington County, totaling approximately 3,000 acres, bounded by County Road 11, Forest Road 305, County Road 3, and the County Road connecting County Roads 3 and 11.

(2) ALASKA.—

(A) TURNAGAIN ARM.—Certain land in the Chugach National Forest, on the Kenai Peninsula, totaling approximately 100,000 acres, extending from sea level to ridgetop surrounding the inlet of Turnagain Arm, known as ''Turnagain Arm''.

(B) HONKER DIVIDE.—Certain land in the Tongass National Forest, totaling approximately 75,000 acres, located on north central Prince of Wales Island, comprising the Thorne River and Hatchery Creek watersheds, stretching approximately 40 miles northwest from the vicinity of the town of Thorne Bay to the vicinity of the town of Coffman Cove, generally known as the ''Honker Divide''.

(3) ARIZONA: NORTH RIM OF THE GRAND CANYON.—Certain land in the Kaibab National Forest that is included in the Grand Canyon Game Preserve, totaling approximately 500,000 acres, abutting the northern side of the Grand Canyon in the area generally known as the ''North Rim of the Grand Canyon''.

(4) ARKANSAS.—

(A) COW CREEK DRAINAGE, ARKANSAS.—Certain land in the Ouachita National Forest, Mena Ranger District, in Polk County, totaling approximately 7,000 acres, known as ''Cow Creek Drainage, Arkansas'', and bounded approximately—

(i) on the north, by County Road 95;

(ii) on the south, by County Road 157;

(iii) on the east, by County Road 48; and

(iv) on the west, by the Arkansas-Oklahoma border.

(B) LEADER AND BRUSH MOUNTAINS.—Certain land in the Ouachita National Forest, Montgomery County and Polk County, totaling approximately 120,000 acres, known as ''Leader Mountain'' and ''Brush Mountain'', located in the vicinity of the Blaylock Creek Watershed between Long Creek and the South Fork of the Saline River.

(C) POLK CREEK AREA.—Certain land in the Ouachita National Forest, Mena Ranger District, totaling approximately 20,000 acres, bounded by Arkansas Highway 4 and Forest Roads 73 and 43, known as the ''Polk Creek area''.

(D) LOWER BUFFALO RIVER WATERSHED.—Certain land in the Ozark National Forest, Sylamore Ranger District, totaling approximately 6,000 acres, including Forest Service land that has not been designated as a wilderness area before the date of enactment of this Act, located in the watershed of Big Creek southwest of the Leatherwood Wilderness Area, Searcy County and Marion County, and known as the ''Lower Buffalo River Watershed''.

(E) UPPER BUFFALO RIVER WATERSHED.—Certain land in the Ozark National Forest, Buffalo Ranger District, totaling approximately 220,000 acres, comprised of Forest Service that has not been designated as a wilderness area before the date of enactment of this Act, known as the ''Upper Buffalo River Watershed'', located approximately 35 miles from the town of Harrison, Madison County, Newton County, and Searcy County, upstream of the confluence of the Buffalo River and Richland Creek in the watersheds of—

(i) the Buffalo River;

(ii) the various streams comprising the Headwaters of the Buffalo River;

(iii) Richland Creek;

(iv) Little Buffalo Headwaters;

(v) Edgmon Creek;

(vi) Big Creek; and

(vii) Cane Creek.

(5) COLORADO: COCHETOPA HILLS.—Certain land in the Gunnison Basin area, known as the ''Cochetopa Hills'', administered by the Gunnison National Forest, Grand Mesa National Forest, Uncompahgre National Forest, and Rio Grand National Forest, totaling approximately 500,000 acres, spanning the continental divide south and east of the city of Gunnison, in Saguache County, and including—

(A) Elk Mountain and West Elk Mountain;

(B) the Grand Mesa;

(C) the Uncompahgre Plateau;

(D) the northern San Juan Mountains;

(E) the La Garitas Mountains; and

(F) the Cochetopa Hills.

(6) GEORGIA.—

(A) ARMUCHEE CLUSTER.—Certain land in the Chattahoochee National Forest, Armuchee Ranger District, known as the ''Armuchee Cluster'', totaling approximately 19,700 acres, comprised of 3 parcels known as ''Rocky Face'', ''Johns Mountain'', and ''Hidden Creek'', located approximately 10 miles southwest of Dalton and 14 miles north of Rome, in Whitfield County, Walker County, Chattooga County, Floyd County, and Gordon County.

(B) BLUE RIDGE CORRIDOR CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Chestatee Ranger District, totaling approximately 15,000 acres, known as the ''Blue Ridge Corridor Cluster, Georgia Areas'', comprised of 5 parcels known as ''Horse Gap'', ''Hogback Mountain'', ''Blackwell Creek'', ''Little Cedar Mountain'', and ''Black Mountain'', located approximately 15 to 20 miles north of the town of Dahlonega, in Union County and Lumpkin County.

(C) CHATTOOGA WATERSHED CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Tallulah Ranger District, totaling 63,500 acres, known as the ''Chattooga Watershed Cluster, Georgia Areas'', comprised of 7 areas known as ''Rabun Bald'', ''Three Forks'', ''Ellicott Rock Extension'', ''Rock Gorge'', ''Big Shoals'', ''Thrift's Ferry'', and ''Five Falls'', in Rabun County, near the towns of Clayton, Georgia, and Dillard, South Carolina.

(D) COHUTTA CLUSTER.—Certain land in the Chattahoochee National Forest, Cohutta Ranger District, totaling approximately 28,000 acres, known as the ''Cohutta Cluster'', comprised of 4 parcels known as ''Cohutta Extensions'', ''Grassy Mountain'', ''Emery Creek'', and ''Mountaintown'', near the towns of Chatsworth and Ellijay, in Murray County, Fannin County, and Gilmer County.

(E) DUNCAN RIDGE CLUSTER.—Certain land in the Chattahoochee National Forest, Brasstown and Toccoa Ranger Districts, totaling approximately 17,000 acres, known as the ''Duncan Ridge Cluster'', comprised of the parcels known as ''Licklog Mountain'', ''Duncan Ridge'', ''Board Camp'', and ''Cooper Creek Scenic Area Extension'', approximately 10 to 15 miles south of the town of Blairsville, in Union County and Fannin County.

(F) ED JENKINS NATIONAL RECREATION AREA CLUSTER.—Certain land in the Chattahoochee National Forest, Toccoa and Chestatee Ranger Districts, totaling approximately 19,300 acres, known as the ''Ed Jenkins National Recreation Area Cluster'', comprised of the Springer Mountain, Mill Creek, and Toonowee parcels, 30 miles north of the town of Dahlonega, in Fannin County, Dawson County, and Lumpkin County.

(G) GAINESVILLE RIDGES CLUSTER.—Certain land in the Chattahoochee National Forest, Chattooga Ranger District, totaling approximately 14,200 acres, known as the ''Gainesville Ridges Cluster'', comprised of 3 parcels known as ''Panther Creek'', ''Tugaloo Uplands'', and ''Middle Fork Broad River'', approximately 10 miles from the town of Toccoa, in Habersham County and Stephens County.

(H) NORTHERN BLUE RIDGE CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Brasstown and Tallulah Ranger Districts, totaling approximately 46,000 acres, known as the ''Northern Blue Ridge Cluster, Georgia Areas'', comprised of 8 areas known as ''Andrews Cove'', ''Anna Ruby Falls Scenic Area Extension'', ''High Shoals'', ''Tray Mountain Extension'', ''Kelly Ridge-Moccasin Creek'', ''Buzzard Knob'', ''Southern Nantahala Extension'', and ''Patterson Gap'', approximately 5 to 15 miles north of Helen, 5 to 15 miles southeast of Hiawassee, north of Clayton, and west of Dillard, in White County, Towns County, and Rabun County.

(I) RICH MOUNTAIN CLUSTER.—Certain land in the Chattahoochee National Forest, Toccoa Ranger District, totaling approximately 9,500 acres, known as the ''Rich Mountain Cluster'', comprised of the parcels known as ''Rich Mountain Extension'' and ''Rocky Mountain'', located 10 to 15 miles northeast of the town of Ellijay, in Gilmer County and Fannin County.

(J) WILDERNESS HEARTLANDS CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Chestatee, Brasstown and Chattooga Ranger Districts, totaling approximately 16,500 acres, known as the ''Wilderness Heartlands Cluster, Georgia Areas'', comprised of 4 parcels known as the ''Blood Mountain Extensions'', ''Raven Cliffs Extensions'', ''Mark Trail Extensions'', and ''Brasstown Extensions'', near the towns of Dahlonega, Cleveland, Helen, and Blairsville, in Lumpkin County, Union County, White County, and Towns County.

(7) IDAHO.—

(A) COVE/MALLARD.—Certain land in the Nez Perce National Forest, totaling approximately 94,000 acres, located approximately 30 miles southwest of the town of Elk City, and west of the town of Dixie, in the area generally known as ''Cove/Mallard''.

(B) MEADOW CREEK.—Certain land in the Nez Perce National Forest, totaling approximately 180,000 acres, located approximately 8 miles east of the town of Elk City in the area generally known as ''Meadow Creek''.

(C) FRENCH CREEK/PATRICK BUTTE.—Certain land in the Payette National Forest, totaling approximately 141,000 acres, located approximately 20 miles north of the town of McCall

in the area generally known as ''French Creek/Patrick Butte''.

(8) ILLINOIS.—

(A) CRIPPS BEND.—Certain land in the Shawnee National Forest, totaling approximately 39 acres, located in Jackson County in the Big Muddy River watershed, in the area generally known as ''Cripps Bend''.

(B) OPPORTUNITY AREA 6.—Certain land in the Shawnee National Forest, totaling approximately 50,000 acres, located in northern Pope County surrounding Bell Smith Springs Natural Area, in the area generally known as ''Opportunity Area 6''.

(C) QUARREL CREEK.—Certain land in the Shawnee National Forest, totaling approximately 490 acres, located in northern Pope County in the Quarrel Creek watershed, in the area generally known as ''Quarrel Creek''.

(9) MICHIGAN: TRAP HILLS.—Certain land in the Ottawa National Forest, Bergland Ranger District, totaling approximately 37,120 acres, known as the ''Trap Hills'', located approximately 5 miles from the town of Bergland, in Ontonagon County.

(10) MINNESOTA.—

(A) TROUT LAKE AND SUOMI HILLS.—Certain land in the Chippewa National Forest, totaling approximately 12,000 acres, known as ''Trout Lake/Suomi Hills'' in Itasca County.

(B) LULLABY WHITE PINE RESERVE.—Certain land in the Superior National Forest, Gunflint Ranger District, totaling approximately 2,518 acres, in the South Brule Opportunity Area, northwest of Grand Marais in Cook County, known as the ''Lullaby White Pine Reserve''.

(11) MISSOURI: ELEVEN POINT-BIG SPRINGS AREA.—Certain land in the Mark Twain National Forest, Eleven Point Ranger District, totaling approximately 200,000 acres, comprised of the administrative area of the Eleven Point Ranger District, known as the ''Eleven Point-Big Springs Area''.

(12) MONTANA: MOUNT BUSHNELL.—Certain land in the Lolo National Forest, totaling approximately 41,000 acres, located approximately 5 miles southwest of the town of Thompson Falls in the area generally known as ''Mount Bushnell''.

(13) NEW MEXICO.—

(A) ANGOSTURA.—Certain land in the eastern half of the Carson National Forest, Camino Real Ranger District, totaling approximately 10,000 acres, located in Township 21, Ranges 12 and 13, known as ''Angostura'', and bounded—

(i) on the northeast, by Highway 518;

(ii) on the southeast, by the Angostura Creek watershed boundary;

(iii) on the southern side, by Trail 19 and the Pecos Wilderness; and

(iv) on the west, by the Agua Piedra Creek watershed.

(B) LA MANGA.—Certain land in the western half of the Carson National Forest, El Rito Ranger District, at the Vallecitos Sustained Yield Unit, totaling approximately 5,400 acres, known as ''La Manga'', in Township 27, Range 6, and bounded—

(i) on the north, by the Tierra Amarilla Land Grant;

(ii) on the south, by Canada Escondida;

(iii) on the west, by the Sustained Yield Unit boundary and the Tierra Amarilla Land Grant; and

(iv) on the east, by the Rio Vallecitos.

(C) ELK MOUNTAIN.—Certain land in the Santa Fe National Forest, totaling approximately 7,220 acres, known as ''Elk Mountain'' located in Townships 17 and 18 and Ranges 12 and 13, and bounded—

(i) on the north, by the Pecos Wilderness;

(ii) on the east, by the Cow Creek Watershed;

(iii) on the west, by the Cow Creek; and

(iv) on the south, by Rito de la Osha.

(D) JEMEZ HIGHLANDS.—Certain land in the Jemez Ranger District of the Santa Fe National Forest, totaling approximately 54,400 acres, known as the ''Jemez Highlands'', located primarily in Sandoval County.

(14) NORTH CAROLINA.—

(A) CENTRAL NANTAHALA CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Nantahala National Forest, Tusquitee, Cheoah, and Wayah Ranger Districts, totaling approximately 107,000 acres, known as the ''Central Nantahala Cluster, North Carolina Areas'', comprised of 9 parcels known as ''Tusquitee Bald'', ''Shooting Creek Bald'', ''Cheoah Bald'', ''Piercy Bald'', ''Wesser Bald'', ''Tellico Bald'', ''Split White Oak'', ''Siler Bald'', and ''Southern Nantahala Extensions'', near the towns of Murphy, Franklin, Bryson City, Andrews, and Beechertown, in Cherokee County, Macon County, Clay County, and Swain County.

(B) CHATTOOGA WATERSHED CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Nantahala National Forest, Highlands Ranger District, totaling approximately 8,000 acres, known as the ''Chattooga Watershed Cluster, North Carolina Areas'', comprised of the Overflow (Blue Valley) and Terrapin Mountain parcels, 5 miles from the town of Highlands, in Macon County and Jackson County.

(C) TENNESSEE BORDER CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Nantahala National Forest, Tusquitee and Cheoah Ranger Districts, totaling approximately 28,000 acres, known as the ''Tennessee Border Cluster, North Carolina Areas'', comprised of the 4 parcels known as the ''Unicoi Mountains'', ''Deaden Tree'', ''Snowbird'', and ''Joyce Kilmer-Slickrock Extension'', near the towns of Murphy and Robbinsville, in Cherokee County and Graham County.

(D) BALD MOUNTAINS.—Certain land in the Pisgah National Forest, French Broad Ranger District, totaling approximately 13,000 acres known as the ''Bald Mountains'', located 12 miles northeast of the town of Hot Springs, in Madison County.

(E) BIG IVY TRACT.—Certain land in the Pisgah National Forest, totaling approximately 14,000 acres, located approximately 15 miles west of Mount Mitchell in the area generally known as the ''Big Ivy Tract''.

(F) BLACK MOUNTAINS CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Pisgah National Forest, Toecane and Grandfather Ranger Districts, totaling approximately 62,000 acres, known as the ''Black Mountains Cluster, North Carolina Areas'', comprised of 5 parcels known as ''Craggy Mountains'', ''Black Mountains'', ''Jarrett Creek'', ''Mackey Mountain'', and ''Woods Mountain'', near the towns of Burnsville, Montreat and Marion, in Buncombe County, Yancey County, and McDowell County.

(G) LINVILLE CLUSTER.—Certain land in the Pisgah National Forest, Grandfather District, totaling approximately 42,000 acres, known as the ''Linville Cluster'', comprised of 7 parcels known as ''Dobson Knob'', ''Linville Gorge Extension'', ''Steels Creek'', ''Sugar Knob'', ''Harper Creek'', ''Lost Cove'', and ''Upper Wilson Creek'', near the towns of Marion, Morgantown, Spruce Pine, Linville, and Blowing Rock, in Burke County, McDowell County, Avery County, and Caldwell County.

(H) NOLICHUCKY, NORTH CAROLINA AREA.—Certain land in the Pisgah National Forest, Toecane Ranger District, totaling approximately 4,000 acres, known as the ''Nolichucky, North Carolina Area'', located 25 miles northwest of Burnsville, in Mitchell County and Yancey County.

(I) PISGAH CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Pisgah National Forest, Pisgah Ranger District, totaling approximately 52,000 acres, known as the ''Pisgah Cluster, North Carolina Areas'', comprised of 5 parcels known as ''Shining Rock and Middle Prong Extensions'', ''Daniel Ridge'', ''Cedar Rock Mountain'', ''South Mills River'', and ''Laurel Mountain'', 5 to 12 miles north of the town of Brevard and southwest of the city of Asheville, in Haywood County, Transylvania County, and Henderson County.

(J) WILDCAT.—Certain land in the Pisgah National Forest, French Broad Ranger District, totaling approximately 6,500 acres, known as ''Wildcat'', located 20 miles northwest of the town of Canton, in Haywood County.

(15) OHIO.—

(A) ARCHERS FORK COMPLEX.—Certain land in the Marietta Unit of the Athens Ranger District, in the Wayne National Forest, in Washington County, known as ''Archers Fork Complex'', totaling approximately 18,350 acres, located northeast of Newport and bounded—

(i) on the northwest, by State Highway 26;

(ii) on the northeast, by State Highway 260;

(iii) on the southeast, by the Ohio River; and

(iv) on the southwest, by Bear Run and Danas Creek.

(B) BLUEGRASS RIDGE.—Certain land in the Ironton Ranger District on the Wayne National Forest, in Lawrence County, known as ''Bluegrass Ridge'', totaling approximately 4,000 acres, located 3 miles east of Etna in Township 4 North, Range 17 West, Sections 19 through 23 and 27 through 30.

(C) BUFFALO CREEK.—Certain land in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as ''Buffalo Creek'', totaling approximately 6500 acres, located 4 miles northwest of Waterloo in Township 5 North, Ranger 17 West, sections 3 through 10 and 15 through 18.

(D) LAKE VESUVIUS.—Certain land in the Ironton Ranger District of the Wayne National Forest, in Lawrence County, totaling approximately 4,900 acres, generally known as ''Lake Vesuvius'', located to the east of Etna in Township 2 North, Range 18 West, and bounded—

(i) on the southwest, by State Highway 93; and

(ii) on the northwest, by State Highway 4.

(E) MORGAN SISTERS.—Certain land in the Ironton Ranger District of the Wayne National Forest, in Lawrence County, known as ''Morgan Sisters'', totaling approximately 2,500 acres, located 1 mile east of Gallia and bounded by State Highway 233 in Township 6 North, Range 17 West, sections 13, 14, 23 and 24 and Township 5 North, Range 16 West, sections 18 and 19.

(F) UTAH RIDGE.—Certain land in the Athens Ranger District of the Wayne National Forest, in Athens County, known as ''Utah Ridge'', totaling approximately 9,000 acres, located 1 mile northwest of Chauncey and bounded—

(i) on the southeast, by State Highway 682 and State Highway 13;

(ii) on the southwest, by US Highway 33 and State Highway 216; and

(iii) on the north, by State Highway 665.

(G) WILDCAT HOLLOW.—Certain land in the Athens Ranger District of the Wayne National Forest, in Perry County and Morgan County, known as ''Wildcat Hollow'', totaling approximately 4,500 acres, located 1 mile east of Corning in Township 12 North, Range 14 West, sections 1, 2, 11–14, 23 and 24 and Township 8 North, Range 13 West, sections 7, 18, and 19.

(16) OKLAHOMA: COW CREEK DRAINAGE, OKLAHOMA.—Certain land in the Ouachita National Forest, Mena Ranger District, in Le Flore County, totaling approximately 3,000

acres, known as ''Cow Creek Drainage, Oklahoma'', and bounded approximately—

(A) on the west, by the Beech Creek National Scenic Area;

(B) on the north, by State Highway 63;

(C) on the east, by the Arkansas-Oklahoma border; and

(D) on the south, by County Road 9038 on the south.

(17) OREGON: APPLEGATE WILDERNESS.—Certain land in the Siskiyou National Forest and Rogue River National Forest, totaling approximately 20,000 acres, approximately 20 miles southwest of the town of Grants Pass and 10 miles south of the town of Williams, in the area generally known as the ''Applegate Wilderness''.

(18) PENNSYLVANIA.—

(A) THE BEAR CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Elk County, totaling approximately 7,800 acres, and comprised of Allegheny National Forest land bounded—

(i) on the west, by Forest Service Road 136;

(ii) on the north, by Forest Service Roads 339 and 237;

(iii) on the east, by Forest Service Road 143; and

(iv) on the south, by Forest Service Road 135.

(B) THE BOGUS ROCKS SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 1,015 acres, and comprised of Allegheny National Forest land in compartment 714 bounded—

(i) on the northeast and east, by State Route 948;

(ii) on the south, by State Route 66;

(iii) 0n the southwest and west, by Township Road 370;

(iv) on the northwest, by Forest Service Road 632; and

(v) on the north, by a pipeline.

(C) THE CHAPPEL FORK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, McKean County, totaling approximately 10,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the south and southeast, by State Road 321;

(ii) on the south, by Chappel Bay;

(iii) on the west, by the Allegheny Reservoir;

(iv) on the north, by State Route 59; and

(v) on the east, by private land.

(D) THE FOOLS CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, Warren County, totaling approximately 1,500 acres, and comprised of Allegheny National Forest land south and west of Forest Service Road 255 and west of FR 255A, bounded—

(i) on the west, by Minister Road; and

(ii) on the south, by private land.

(E) THE HICKORY CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, Warren County, totaling approximately 2,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the east and northeast, by Heart's Content Road;

(ii) on the south, by Hickory Creek Wilderness Area;

(iii) on the northwest, by private land; and

(iv) on the north, by Allegheny Front National Recreation Area.

(F) THE LAMENTATION RUN SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 4,500 acres, and—

(i) comprised of Allegheny National Forest land bounded—

(I) on the north, by Tionesta Creek;

(II) on the east, by Salmon Creek;

(III) on the southeast and southwest, by private land; and

(IV) on the south, by Forest Service Road 210; and

(ii) including the lower reaches of Bear Creek.

(G) THE LEWIS RUN SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, McKean County, totaling approximately 500 acres, and comprised of Allegheny National Forest land north and east of Forest Service Road 312.3, including land known as the ''Lewis Run Natural Area'' and consisting of land within Compartment 466, Stands 1–3, 5–8, 10–14, and 18–27.

(H) THE MILL CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Elk County, totaling approximately 2,000 acres, and comprised of Allegheny National Forest land within a 1-mile radius of the confluence of Red Mill Run and Big Mill Creek and known as the ''Mill Creek Natural Area''.

(I) THE MILLSTONE CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 30,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the north, by State Route 66;

(ii) on the northeast, by Forest Service Road 226;

(iii) on the east, by Forest Service Roads 130, 774, and 228;

(iv) on the southeast, by State Road 3002 and Forest Service Road 189;

(v) on the south, by the Clarion River; and

(vi) on the southwest, west, and northwest, by private land.

(J) THE MINISTER CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, Warren County, totalling approximately 6,600 acres, and comprised of Allegheny National Forest land bounded—

(i) on the north, by a snowmobile trail;

(ii) on the east, by Minister Road;

(iii) on the south, by State Route 666 and private land;

(iv) on the southwest, by Forest Service Road 420; and

(v) on the west, by warrants 3109 and 3014.

(K) THE MUZETTE SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 325 acres, and comprised of Allegheny National Forest land bounded—

(i) on the west, by 79°16′ longitude, approximately;

(ii) on the north, by Forest Service Road 561;

(iii) on the east, by Forest Service Road 212; and

(iv) on the south, by private land.

(L) THE SUGAR RUN SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, McKean County, totaling approximately 8,800 acres, and comprised of Allegheny National Forest land bounded—

(i) on the north, by State Route 346 and private land;

(ii) on the east, by Forest Service Road 137; and

(iii) on the south and west, by State Route 321.

(M) THE TIONESTA SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford and Marienville Ranger Districts, Elk, Forest, McKean, and Warren Counties, totalling approximately 27,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the west, by private land and State Route 948;

(ii) on the northwest, by Forest Service Road 258;

(iii) on the north, by Hoffman Farm Recreation Area and Forest Service Road 486;

(iv) on the northeast, by private land and State Route 6;

(v) on the east, by private land south to Forest Road 133, then by snowmobile trail from Forest Road 133 to Windy City, then by private land and Forest Road 327 to Russell City; and

(vi) on the southwest, by State Routes 66 and 948.

(19) SOUTH CAROLINA.—

(A) BIG SHOALS, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 2,000 acres, known as ''Big Shoals, South Carolina Area'', 15 miles south of Highlands, North Carolina.

(B) BRASSTOWN CREEK, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 3,500 acres, known as ''Brasstown Creek, South Carolina Area'', approximately 15 miles west of Westminster, South Carolina.

(C) CHAUGA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 16,000 acres, known as ''Chauga'', approximately 10 miles west of Walhalla, South Carolina.

(D) DARK BOTTOMS.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 4,000 acres, known as ''Dark Bottoms'', approximately 10 miles northwest of Westminster, South Carolina.

(E) ELLICOTT ROCK EXTENSION, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 2,000 acres, known as ''Ellicott Rock Extension, South Carolina Area'', located approximately 10 miles south of Cashiers, North Carolina.

(F) FIVE FALLS, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 3,500 acres, known as ''Five Falls, South Carolina Area'', approximately 10 miles southeast of Clayton, Georgia.

(G) PERSIMMON MOUNTAIN.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 7,000 acres, known as ''Persimmon Mountain'', approximately 12 miles south of Cashiers, North Carolina.

(H) ROCK GORGE, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 2,000 acres, known as ''Rock Gorge, South Carolina Area'', 12 miles southeast of Highlands, North Carolina.

(I) TAMASSEE.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 5,500 acres, known as ''Tamassee'', approximately 10 miles north of Walhalla, South Carolina.

(J) THRIFT'S FERRY, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 5,000 acres, known as ''Thrift's Ferry, South Carolina Area'', 10 miles east of Clayton, Georgia.

(20) SOUTH DAKOTA.—

(A) BLACK FOX AREA.—Certain land in the Black Hills National Forest, totaling approximately 12,400 acres, located in the upper reaches of the Rapid Creek watershed, known as the ''Black Fox Area'', and roughly bounded—

(i) on the north, by FDR 206;

(ii) on the south, by the steep slopes north of Forest Road 231; and

(iii) on the west, by a fork of Rapid Creek.

(B) BREAKNECK AREA.—Certain land in the Black Hills National Forest, totaling 6,700 acres, located along the northeast edge of the Black Hills in the vicinity of the Black Hills National Cemetery and the Bureau of Land Management's Fort Meade Recreation Area, known as the ''Breakneck Area'', and generally—

(i) bounded by Forest Roads 139 and 169 on the north, west, and south; and

(ii) demarcated along the eastern and western boundaries by the ridge-crests dividing the watershed.

(C) NORBECK PRESERVE.—Certain land in the Black Hills National Forest, totaling approximately 27,766 acres, known as the ''Norbeck Preserve'', and encompassed approximately by a boundary that, starting at the southeast corner—

(i) runs north along FDR 753 and United States Highway Alt. 16, then along SD 244 to the junction of Palmer Creek Road, which serves generally as a northwest limit;

(ii) heads south from the junction of Highways 87 and 89;

(iii) runs southeast along Highway 87; and

(iv) runs east back to FDR 753, excluding a corridor of private land along FDR 345.

(D) PILGER MOUNTAIN AREA.—Certain land in the Black Hills National Forest, totaling approximately 12,600 acres, known as the ''Pilger Mountain Area'', located in the Elk Mountains on the southwest edge of the Black Hills, and roughly bounded—

(i) on the east and northeast, by Forest Roads 318 and 319;

(ii) on the north and northwest, by Road 312; and

(iii) on the southwest, by private land.

(E) STAGEBARN CANYONS.—Certain land in the Black Hills National Forest, known as ''Stagebarn Canyons'', totaling approximately 7,300 acres, approximately 10 miles west of Rapid City, South Dakota.

(21) TENNESSEE.—

(A) BALD MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain land in the Nolichucky and Unaka Ranger Districts of the Cherokee National Forest, in Cocke County, Green County, Washington County, and Unicoi County, totaling approximately 46,133 acres, known as the ''Bald Mountains Cluster, Tennessee Areas'', and comprised of 10 parcels known as ''Laurel Hollow Mountain'', ''Devil's Backbone'', ''Laurel Mountain'', ''Walnut Mountain'', ''Wolf Creek'', ''Meadow Creek Mountain'', ''Brush Creek Mountain'', ''Paint Creek'', ''Bald Mountain'', and ''Sampson Mountain Extension'', located near the towns of Newport, Hot Springs, Greeneville, and Erwin.

(B) BIG FROG/COHUTTA CLUSTER.—Certain land in the Cherokee National Forest, in Polk County, Ocoee Ranger District, Hiwassee Ranger District, and Tennessee Ranger District, totaling approximately 28,800 acres, known as the ''Big Frog/Cohutta Cluster'', comprised of 4 parcels known as ''Big Frog Extensions'', ''Little Frog Extensions'', ''Smith Mountain'', and ''Rock Creek'', located near the towns of Copperhill, Ducktown, Turtletown, and Benton.

(C) CITICO CREEK WATERSHED CLUSTER TENNESSEE AREAS.—Certain land in the Tellico Ranger District of the Cherokee National Forest, in Monroe County, totaling approximately 14,256 acres, known as the ''Citico Creek Watershed Cluster, Tennessee Areas'', comprised of 4 parcels known as ''Flats Mountain'', ''Miller Ridge'', ''Cowcamp Ridge'', and ''Joyce Kilmer-Slickrock Extension'', near the town of Tellico Plains.

(D) IRON MOUNTAINS CLUSTER.—Certain land in the Cherokee National Forest, Watauga Ranger District, totaling approximately 58,090 acres, known as the ''Iron Mountains Cluster'', comprised of 8 parcels known as ''Big Laurel Branch Addition'', ''Hickory Flat Branch'', ''Flint Mill'', ''Lower Iron Mountain'', ''Upper Iron Mountain'', ''London Bridge'', ''Beaverdam Creek'', and ''Rodgers Ridge'', located near the towns of Bristol and Elizabethton, in Sullivan County and Johnson County.

(E) NORTHERN UNICOI MOUNTAINS CLUSTER.—Certain land in the Tellico Ranger District of the Cherokee National Forest, in Monroe County, totaling approximately 30,453 acres, known as the ''Northern Unicoi Mountain Cluster'', comprised of 4 parcels known as ''Bald River Gorge Extension'', ''Upper Bald River'', ''Sycamore Creek'', and ''Brushy Ridge'', near the town of Tellico Plains.

(F) ROAN MOUNTAIN CLUSTER.—Certain land in the Cherokee National Forest, Unaka and Watauga Ranger Districts, totaling approximately 23,725 acres known as the ''Roan Mountain Cluster'', comprised of 7 parcels known as ''Strawberry Mountain'', ''Highlands of Roan'', ''Ripshin Ridge'', ''Doe River Gorge Scenic Area'', ''White Rocks Mountain'', ''Slide Hollow'' and ''Watauga Reserve'', approximately 8 to 20 miles south of the town of Elizabethton, in Unicoi County, Carter County, and Johnson County.

(G) SOUTHERN UNICOI MOUNTAINS CLUSTER.—Certain land in the Hiwassee Ranger District of the Cherokee National Forest, in Polk County, Monroe County, and McMinn County, totaling approximately 11,251 acres, known as the ''Southern Unicoi Mountains Cluster'', comprised of 3 parcels known as ''Gee Creek Extension'', ''Coker Creek'', and ''Buck Bald'', near the towns of Etowah, Benton, and Turtletown.

(H) UNAKA MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain land in the Cherokee National Forest, Unaka Ranger District, totaling approximately 15,669 acres, known as the ''Unaka Mountains Cluster, Tennessee Areas'', comprised of 3 parcels known as ''Nolichucky'', ''Unaka Mountain Extension'', and ''Stone Mountain'', approximately 8 miles from Erwin, in Unicoi County and Carter County.

(22) TEXAS: LONGLEAF RIDGE.—Certain land in the Angelina National Forest, in Jasper County and Angelina County, totaling approximately 30,000 acres, generally known as ''Longleaf Ridge'', and bounded—

(A) on the west, by Upland Island Wilderness Area;

(B) on the south, by the Neches River; and

(C) on the northeast, by Sam Rayburn Reservoir.

(23) VERMONT.—

(A) GLASTENBURY AREA.—Certain land in the Green Mountain National Forest, totaling approximately 35,000 acres, located 3 miles northeast of Bennington, generally known as the ''Glastenbury Area'', and bounded—

(i) on the north, by Kelly Stand Road;

(ii) on the east, by Forest Road 71;

(iii) on the south, by Route 9; and

(iv) on the west, by Route 7.

(B) LAMB BROOK.—Certain land in the Green Mountain National Forest, totaling approximately 5,500 acres, located 3 miles southwest of Wilmington, generally known as ''Lamb Brook'', and bounded—

(i) on the west, by Route 8;

(ii) on the south, by Route 100;

(iii) on the north, by Route 9; and

(iv) on the east, by land owned by New England Power Company.

(C) ROBERT FROST MOUNTAIN AREA.—Certain land in the Green Mountain National Forest, totaling approximately 8,500 acres, known as ''Robert Frost Mountain Area'', located northeast of Middlebury, consisting of the Forest Service land bounded—

(i) on the west, by Route 116;

(ii) on the north, by Bristol Notch Road;

(iii) on the east, by Lincoln/Ripton Road; and

(iv) on the south, by Route 125.

(24) VIRGINIA.—

(A) BEAR CREEK.—Certain land in the Jefferson National Forest, Wythe Ranger District, known as ''Bear Creek'', north of Rural Retreat, in Smyth County and Wythe County.

(B) CAVE SPRINGS.—Certain land in the Jefferson National Forest, Clinch Ranger District, totaling approximately 3,000 acres, known as ''Cave Springs'', between State Route 621 and the North Fork of the Powell River, in Lee County.

(C) DISMAL CREEK.—Certain land totaling approximately 6,000 acres, in the Jefferson National Forest, Blacksburg Ranger District, known as ''Dismal Creek'', north of State Route 42, in Giles County and Bland County.

(D) STONE COAL CREEK.—Certain land in the Jefferson National Forest, New Castle Ranger District, totaling approximately 2,000 acres, known as ''Stone Coal Creek'', in Craig County and Botentourt County.

(E) WHITE OAK RIDGE: TERRAPIN MOUNTAIN.—Certain land in the Glenwood Ranger District of the Jefferson National Forest, known as ''White Oak Ridge—Terrapin Mountain'', totaling approximately 8,000 acres, east of the Blue Ridge Parkway, in Botentourt County and Rockbridge County.

(F) WHITETOP MOUNTAIN.—Certain land in the Jefferson National Forest, Mt. Rodgers Recreation Area, totaling 3,500 acres, known as ''Whitetop Mountain'', in Washington County, Smyth County, and Grayson County.

(G) WILSON MOUNTAIN.—Certain land known as ''Wilson Mountain'', in the Jefferson National Forest, Glenwood Ranger District, totaling approximately 5,100 acres, east of Interstate 81, in Botentourt County and Rockbridge County.

(H) FEATHERCAMP.—Certain land in the Mt. Rodgers Recreation Area of the Jefferson National Forest, totaling 4,974 acres, known as ''Feathercamp'', located northeast of the town of Damascus and north of State Route 58 on the Feathercamp ridge, in Washington County.

(25) WISCONSIN.—

(A) FLYNN LAKE.—Certain land in the Chequamegon-Nicolet National Forest, Washburn Ranger District, totaling approximately 5,700 acres, known as ''Flynn Lake'', in the Flynn Lake semi-primitive nonmotorized area, in Bayfield County.

(B) GHOST LAKE CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Great Divide Ranger District, totaling approximately 6,000 acres, known as ''Ghost Lake Cluster'', including 5 parcels known as ''Ghost Lake'', ''Perch Lake'', ''Lower Teal River'', ''Foo Lake'', and ''Bulldog Springs'', in Sawyer County.

(C) LAKE OWENS CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Great Divide and Washburn Ranger Districts, totaling approximately 3,600 acres, known as ''Lake Owens Cluster'', comprised of parcels known as ''Lake Owens'', ''Eighteenmile Creek'', ''Northeast Lake'', and ''Sugarbush Lake'', in Bayfield County.

(D) MEDFORD CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as the ''Medford Cluster'', comprised of 12 parcels known as ''County E Hardwoods'', ''Silver Creek/Mondeaux River Bottoms'', ''Lost Lake Esker'', ''North and South Fork Yellow Rivers'', ''Bear Creek'', ''Brush Creek'', ''Chequamegon Waters'', ''John's and Joseph Creeks'', ''Hay Creek Pine-Flatwoods'', ''558 Hardwoods'', ''Richter Lake'', and ''Lower Yellow River'', in Taylor County.

(E) PARK FALLS CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as ''Park Falls Cluster'', comprised of 11 parcels known as ''Sixteen Lakes'', ''Chippewa Trail'', ''Tucker and Amik Lakes'', ''Lower Rice Creek'', ''Doering Tract'', ''Foulds Creek'', ''Bootjack Conifers'', ''Pond'', ''Mud and Riley Lake Peatlands'', ''Little Willow Drumlin'', and ''Elk River'', in Price County and Vilas County.

(F) PENOKEE MOUNTAIN CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Great Divide Ranger District, totaling approximately 23,000 acres, known as ''Penokee Mountain Cluster'', comprised of—

(i) the Marengo River and Brunsweiler River semi-primitive nonmotorized areas; and

(ii) parcels known as ''St. Peters Dome'', ''Brunsweiler River Gorge'', ''Lake Three'', ''Hell Hole Creek'', and ''North Country Trail Hardwoods'', in Ashland County and Bayfield County.

(G) SOUTHEAST GREAT DIVIDE CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Medford Park Falls Ranger District, totaling approximately 25,000 acres, known as the ''Southeast Great Divide Cluster'', comprised of parcels known as ''Snoose Lake'', ''Cub Lake'', ''Springbrook Hardwoods'', ''Upper Moose River'', ''East Fork Chippewa River'', ''Upper Torch River'', ''Venison Creek'', ''Upper Brunet River'', ''Bear Lake Slough'', and ''Noname Lake'', in Ashland County and Sawyer County.

(H) DIAMOND ROOF CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 6,000 acres, known as ''Diamond Roof Cluster'', comprised of 4 parcels known as ''McCaslin Creek'', ''Ada Lake'', ''Section 10 Lake'', and ''Diamond Roof'', in Forest County, Langlade County, and Oconto County.

(I) ARGONNE FOREST CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as ''Argonne Forest Cluster'', comprised of parcels known as ''Argonne Experimental Forest'', ''Scott Creek'', ''Atkins Lake'', and ''Island Swamp'', in Forest County.

(J) BONITA GRADE.—Certain land in the Chequamegon-Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 1,200 acres, known as ''Bonita Grade'', comprised of parcels known as ''Mountain Lakes'', ''Temple Lake'', ''Second South Branch'', ''First South Branch'', and ''South Branch Oconto River'', in Langlade County.

(K) FRANKLIN AND BUTTERNUT LAKES CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as ''Franklin and Butternut Lakes Cluster'', comprised of 8 parcels known as ''Bose Lake Hemlocks'', ''Luna White Deer'', ''Echo Lake'', ''Franklin and Butternut Lakes'', ''Wolf Lake'', ''Upper Ninemile'', ''Meadow'', and ''Bailey Creeks'', in Forest County and Oneida County.

(L) LAUTERMAN LAKE AND KIEPER CREEK.—Certain land in the Chequamegon-Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 2,500 acres, known as ''Lauterman Lake and Kieper Creek'', in Florence County.

(26) WYOMING: SAND CREEK AREA.—

(A) IN GENERAL.—Certain land in the Black Hills National Forest, totaling approximately 8,300 acres known as the ''Sand Creek area'', located in Crook County, in the far northwest corner of the Black Hills.

(B) BOUNDARY.—Beginning in the northwest corner and proceeding counterclockwise, the boundary for the Sand Creek Area roughly follows—

(i) forest Roads 863, 866, 866.1B;

(ii) a line linking forest roads 866.1B and 802.1B;

(iii) forest road 802.1B;

(iv) forest road 802.1;

(v) an unnamed road;

(vi) Spotted Tail Creek (excluding all private land);

(vii) forest road 829.1;

(viii) a line connecting forest roads 829.1 and 864;

(ix) forest road 852.1; and

(x) a line connecting forest roads 852.1 and 863.

(d) COMMITTEE OF SCIENTISTS.—

(1) ESTABLISHMENT.—The Secretaries concerned shall appoint a committee consisting of scientists who—

(A) are not officers or employees of the Federal Government;

(B) are not officers or employees of any entity engaged in whole or in part in the production of wood or wood products; and

(C) have not contracted with or represented any entity described in subparagraph (A) or (B) in a period beginning 5 years before the date on which the scientist is appointed to the committee.

(2) RECOMMENDATIONS FOR ADDITIONAL SPECIAL AREAS.—Not later than 2 years of the date of the enactment of this Act, the committee shall provide Congress with recommendations for additional special areas.

(3) CANDIDATE AREAS.—Candidate areas for recommendation as additional special areas shall have outstanding biological values that are exemplary on a local, regional, and national level, including the presence of—

(A) threatened or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery of endangered or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;

(H) commercial fisheries; and

(I) sources of clean water such as key watersheds.

(4) GOVERNING PRINCIPLE.—The committee shall adhere to the principles of conservation biology in identifying special areas based on biological values.

SEC. 204. RESTRICTIONS ON MANAGEMENT ACTIVITIES IN ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, AND SPECIAL AREAS.

(a) RESTRICTION OF MANAGEMENT ACTIVITIES IN ANCIENT FORESTS.—On Federal land located in Ancient forests—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(b) RESTRICTION OF MANAGEMENT ACTIVITIES IN ROADLESS AREAS.—On Federal land located in roadless areas (except military installations)—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted except of non-native invasive tree species, in which case the limitations on logging in title I shall apply; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(c) RESTRICTION OF MANAGEMENT ACTIVITIES IN WATERSHED PROTECTION AREAS.—On Federal land located in watershed protection areas—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted except of non-native invasive tree species, in which case the limitations on logging in title I shall apply; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(d) RESTRICTION OF MANAGEMENT ACTIVITIES IN SPECIAL AREAS.—On Federal land located in special areas—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted except of non-native invasive tree species, in which case the limitations on logging in title I shall apply; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(e) MAINTENANCE OF EXISTING ROADS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the restrictions described in subsection (a) shall not prohibit the maintenance of an improved road, or any road accessing private inholdings.

(2) ABANDONED ROADS.—Any road that the Secretary determines to have been abandoned before the date of enactment of this Act shall not be maintained or reconstructed.

(f) ENFORCEMENT.—

(1) FINDING.—Congress finds that all people of the United States are injured by actions on land to which this section applies.

(2) PURPOSE.—The purpose of this subsection is to foster the widest possible enforcement of this section.

(3) FEDERAL ENFORCEMENT.—The Secretary and the Attorney General of the United States shall enforce this section against any person that violates this section.

(4) CITIZEN SUITS.—

(A) IN GENERAL.—A citizen harmed by a violation of this section may enforce this section by bringing a civil action for a declaratory judgment, a temporary restraining order, an injunction, statutory damages, or other remedy against any alleged violator, including the United States, in any district court of the United States.

(B) JUDICIAL RELIEF.—If a district court of the United States determines that a violation of this section has occurred, the district court—

(i) shall impose a damage award of not less than $5,000;

(ii) may issue 1 or more injunctions or other forms of equitable relief; and

(iii) shall award to each prevailing party the reasonable costs of bringing the action, including attorney's fees, witness fees, and other necessary expenses.

(C) STANDARD OF PROOF.—The standard of proof in all actions under this paragraph shall be the preponderance of the evidence.

(D) TRIAL.—A trial for any action under this section shall be de novo.

(E) PAYMENT OF DAMAGES.—

(i) NON-FEDERAL VIOLATOR.—A damage award under subparagraph (B)(i) shall be paid by a non-Federal violator or violators designated by the court to the Treasury.

(ii) FEDERAL VIOLATOR.—

(I) IN GENERAL.—Not later than 40 days after the date on which judgment is rendered, a damage award under subparagraph (B)(i) for which the United States is determined to be liable shall be paid from the Treasury, as provided under section 1304 of title 31, United States Code, to the person or persons designated to receive the damage award.

(II) USE OF DAMAGE AWARD.—A damage award described under subclause (I) shall be used by the recipient to protect or restore native biodiversity on Federal land or on land adjoining Federal land.

(III) COURT COSTS.—Any award of costs of litigation and any award of attorney fees shall be paid by a Federal violator not later than 40 days after the date on which judgment is rendered.

(5) WAIVER OF SOVEREIGN IMMUNITY.—

(A) IN GENERAL.—The United States (including agents and employees of the United States) waives its sovereign immunity in all respects in all actions under this section.

(B) NOTICE.—No notice is required to enforce this subsection.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on the date of enactment of this Act.

SEC. 302. EFFECT ON EXISTING CONTRACTS.

This Act and the amendments made by this Act shall not apply to any contract for the sale of timber that was entered into on or before the date of enactment of this Act.

SEC. 303. WILDERNESS ACT EXCLUSION.

This Act and the amendments made by this Act shall not apply to any Federal wilderness area designated under the Wilderness Act (16 U.S.C. 1131 et seq.).

TITLE IV—GIANT SEQUOIA NATIONAL MONUMENT

SEC. 401. FINDINGS.

Congress finds that—

(1) in accordance with the Act of June 8, 1906 (16 U.S.C. 431 et seq.), the Giant Sequoia National Monument was created by presidential proclamation on April 15, 2000;

(2) the Proclamation accurately states the following: ''The rich and varied landscape of the Giant Sequoia National Monument holds a diverse array of scientific and historic resources. Magnificent groves of towering giant sequoias, the world's largest trees, are interspersed within a great belt of coniferous forest, jeweled with mountain meadows. Bold granitic domes and spires, and plunging gorges, texture the landscape. The area's elevation climbs from about 2,500 to 9,700 feet over a distance of only a few miles, capturing an extraordinary number of habitats within a relatively small area. This spectrum of ecosystems is home to a diverse array of plants and animals, many of which are rare or endemic to the southern Sierra Nevada. The monument embraces limestone caverns and holds unique paleological resources documenting tens of thousands of years of ecosystem change. The monument also has many archaeological sites recording Native American occupation and adaptations to this complex landscape, and historic remnants of early Euroamerican settlement as well as the commercial exploitation of the giant sequoias. The monument provides exemplary opportunities for biologists, geologists, paleontologists, archaeologists, and historians to study these objects.'' ;

(3) the various ecosystems cited as the basis for establishment of the Monument—

(A) extend beyond the existing boundaries of the Monument; and

(B) encompass the fragile and extremely diverse southern Sierra Nevada bioregion and the overlapping Mohave ecosystem;

(4) to protect all the ecosystems and objects described in the Proclamation, the boundaries of the Monument must be extended to provide for watershed integrity, seasonal wildlife migrations, and other benefits;

(5) even though the primary reason for establishing the Monument was to rescue the area from the effects of road building and severe logging implemented by the Forest Service, the Proclamation left the Monument under the jurisdiction of the Chief of the Forest Service;

(6) the Proclamation provides the following: ''No portion of the Monument shall be considered to be suited for timber production, and no part of the Monument shall be used in a calculation or provision of a sustained yield of timber from the Sequoia National Forest.'';

(7) the Proclamation provided that ''[t]hese forests [in the Monument] need restoration to counteract the effects of a century of fire suppression and logging'';

(8) throughout the history of the Forest Service, the Forest Service has been focused on the logging of Federal land for the purpose of selling timber;

(9) because of this emphasis on logging and for other reasons, the National Park Service would be better able to manage the Monument than the Forest Service;

(10) the National Park Service manages 73 national monuments, many of which were originally under the jurisdiction of the Forest Service and were later transferred to the National Park System by an Act of Congress or by Executive Order;

(11) national monuments were managed by different Federal agencies, including the Department of Agriculture, until 1933, when President Franklin D. Roosevelt consolidated the management of national monuments in the National Park Service through Executive Order 6166 of June 10, 1933, and Executive Order 6228 of July 28, 1933;

(12) in most cases, national monuments established by presidential proclamation and assigned to the Forest Service or other Federal agencies have been ultimately transferred to the Secretary of the Interior, to be managed by the National Park Service;

(13) in a number of cases, Congress has eventually converted national monuments under the jurisdiction of the National Park Service into national parks;

(14) national monuments that were converted into national parks include the Grand Canyon National Park, Olympic National Park, and Death Valley National Park;

(15) Congress has converted large areas of national forests into some of the national parks and national monuments most cherished by the people of the United States;

(16) prominent examples of conversions in the region of the Monument are—

(A) Kings Canyon National Park, which was created out of the Sierra National Forest and Sequoia National Forest in 1940;

(B) the major eastward extension doubling the size of Sequoia National Park in 1926, with land for the addition being taken from the Sequoia National Forest; and

(C) the Mineral King addition to the Sequoia National Park in 1978, with land for the addition being taken from Sequoia National Forest;

(17) the Monument has more acres of sequoia groves than are contained in Sequoia, Kings Canyon, Yosemite, and Calaveras Big Tree, which are the only national parks and State parks in which sequoias occur;

(18) the largest tree in the world may still await discovery in some remote area of the Monument;

(19) to save the ecological integrity of the Monument, it is essential that the approximately 40,640 acres of land between the Western Divide (commonly known as the ''Greenhorn Mountains'') and the center line of the Kern River, south to the boundary line between Tulare and Kern counties, be included in the monument;

(20) Sequoia National Forest land, north of Sequoia National Park, should be added to the Sierra National Forest, which adjoins the Sierra National Forest on the north;

(21) for reasons of accessibility, economy, and general efficiency of operation, the remaining Sequoia National Forest territory south of Sequoia National Park belongs in the Inyo National Forest, which already shares the Golden Trout Wilderness with the Sequoia National Forest; and

(22) the overlapping jurisdiction with respect to the Sequoia National Forest territory results in needlessly wasteful management procedures.

SEC. 402. DEFINITIONS.

In this title:

(1) ADVISORY BOARD.—The term ''Advisory Board'' means the Giant Sequoia National Monument Advisory Board established under section 404(d)(1).

(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Monument required by the Proclamation.

(3) MONUMENT.—The term ''Monument'' means the Giant Sequoia National Monument established by the Proclamation.

(4) PROCLAMATION.—The term ''Proclamation'' means the Presidential Proclamation number 7295, dated April 15, 2000 (65 Fed. Reg. 24095).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(6) SUPERINTENDENT.—The term ''Superintendent'' means the Superintendent of the Monument appointed under section 404(c).

SEC. 403. ADDITIONS TO GIANT SEQUOIA NATIONAL MONUMENT.

(a) IN GENERAL.—There is added to the Monument—

(1) the approximately 40,640 acres of land between the Western Divide (commonly known as the ''Greenhorn Mountains'') and the center line of the Kern River, south to the boundary line between Tulare and Kern counties; and

(2) the Jenny Lakes Wilderness.

(b) BOUNDARY REVISION.—The boundary of the Monument is revised to reflect the addition of the land to the Monument under subsection (a).

SEC. 404. TRANSFER OF ADMINISTRATIVE JURISDICTION OVER THE GIANT SEQUOIA NATIONAL MONUMENT.

(a) IN GENERAL.—Administrative jurisdiction over the Monument is transferred from the Secretary of Agriculture to the Secretary.

(b) APPLICABLE LAW.—The Monument shall be administered in accordance with the Proclamation, except that any deliberations of the Chief of the Forest Service with respect to management of the Monument shall be set aside.

(c) SUPERINTENDENT.—The Secretary shall appoint a Superintendent for the Monument to administer the Monument.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Superintendent shall establish an advisory board, to be known as the ''Giant Sequoia National Monument Advisory Board'', comprised of 9 members, to be appointed by the Superintendent.

(2) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT.—Members of the Advisory Board shall not be employees of the Federal Government.

(3) TERMS.—

(A) IN GENERAL.—A member of the Advisory Board shall serve for a term of not more than 4 years.

(B) INTERVALS.—The Superintendent shall appoint members of the Advisory Board in a manner that allows the terms of the members to expire at staggered intervals.

(4) DUTIES.—The Advisory Board shall—

(A) assist in the preparation of the management plan; and

(B) provide recommendations with respect to the management of the Monument.

(5) PROCEDURES.—The Superintendent shall establish procedures and standards for the Advisory Board.

(6) OPEN MEETINGS.—Meetings of the Advisory Board shall be open to the public.

(e) HEADQUARTERS.—The headquarters for the Monument shall be located at the National Park Service facility at Three Rivers, California, which is the headquarters of Sequoia National Park and Kings Canyon National Park.

(f) VISITOR CENTERS.—Visitors centers for the Monument shall be located at—

(1) Grant Grove Visitor Center in Kings Canyon National Park;

(2) Springville, the principal entrance to the west side of the southern unit of the Monument; and

(3) Kernville.

SEC. 405. ADDITIONS TO THE SIERRA NATIONAL FOREST AND INYO NATIONAL FOREST.

(a) SIERRA NATIONAL FOREST.—

(1) IN GENERAL.—The portion of the Sequoia National Forest located north of Sequoia National Park that is not included in the Monument is added to the Sierra National Forest.

(2) BOUNDARY REVISION.—The boundary of the Sequoia National Forest is adjusted to include the land added by paragraph (1).

(b) INYO NATIONAL FOREST.—

(1) IN GENERAL.—The portion of the Sequoia National Forest south of Sequoia National Park that is not included in the Monument is added to the Inyo National Forest.

(2) BOUNDARY REVISION.—The boundary of the Inyo National Forest is adjusted to include the land added by paragraph (1).

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out sections 404 and 405.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 280—SUPPORTING ''LIGHTS ON AFTERSCHOOL'', A NATIONAL CELEBRATION OF AFTER SCHOOL PROGRAMS

Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Mrs. BOXER, Mr. BURNS, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CORNYN, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. SALAZAR, Ms. SNOWE, Mr. SPECTER, and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 280

Whereas high quality after school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high quality after school programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high quality after school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high quality after school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas ''Lights On Afterschool!'', a national celebration of after school programs held on October 20, 2005, promotes the critical importance of high quality after school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States have no place to go after school; and

Whereas many after school programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of ''Lights On Afterschool!'' a national celebration of after school programs.

SENATE RESOLUTION 281—HONORING AND THANKING JAMES PATRICK ROHAN

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 281

Whereas Assistant Chief of Police James Patrick Rohan, a native of the State of Maryland, has served the United States Capitol Police for thirty (30) years with distinction having been appointed as a Private on December 8, 1975;

Whereas Assistant Chief Rohan, haven risen through the ranks to his current position over his longstanding career, has been instrumental in a variety of initiatives designed to enhance the security of the Congress;

Whereas Assistant Chief Rohan, who holds a Master of Science Degree in Justice/Law Enforcement from the American University and a Bachelor of Arts Degree in Law Enforcement from the University of Maryland, as well as numerous specialized law enforcement and security training accomplishments and honors: Now, therefore, be it

Resolved, That the Senate hereby honors and thanks James Patrick Rohan and his wife, Cecilia, and children, Ben, Natalie, Eric and David, and his entire family, for a lifelong professional commitment of service to the United States Capitol Police and the United States Congress.

SENATE CONCURRENT RESOLUTION 59—RECOGNIZING THE 40TH ANNIVERSARY OF THE WHITE HOUSE FELLOWS PROGRAM

Mr. BROWNBACK submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

Whereas in 1964, John D. Gardner presented the idea of selecting a handful of outstanding men and women to come to Washington to participate as Fellows and learn the workings of the highest levels of the Federal Government to learn about leadership as they observed the Nation's officials in action and met with these officials and other leaders of society, thereby strengthening the Fellows' abilities and desires to contribute to their communities, their professions, and their country;

Whereas President Lyndon B. Johnson established the President's Commission on White House Fellowships, through Executive Order 11183, to create a program that would select between 11 and 19 outstanding young Americans every year and bring them to Washington for ''first hand, high-level experience in the workings of the Federal Government, to establish an era when the young men and women of America and their government belonged to each other—belonged to each other in fact and in spirit'';

Whereas the White House Fellows Program has steadfastly remained a nonpartisan program that has served 8 Presidents exceptionally well;

Whereas the nearly 600 White House Fellows that have served, have established a legacy of leadership in every aspect of American society that includes appointments as Cabinet officials and senior White House staff, election to the House of Representatives, Senate, and State and local Government, appointments to the Federal, State, and local judiciary, appointments as United States Attorneys, leadership in many of the Nation's largest corporations and law firms, service as presidents of colleges and universities, deans of our most distinguished graduate schools, officials in nonprofit organizations, distinguished scholars and historians, and service as senior leaders in every branch of the United States Armed Forces;

Whereas this legacy of leadership is a national resource that has been used by the Nation in major challenges including organizing resettlement operations following the Vietnam War, assisting with the national response to terrorist attacks, managing the aftermath of natural disasters such as Hurricanes Katrina and Rita, and reforming and innovating in national and international securities and capital markets;

Whereas the nearly 600 White House Fellows have characterized their post-Fellowship years with a lifetime commitment to public service through continuing personal and professional renewal and association, creating a Fellows community of mutual support for leadership at every level of government and in every element of our national life; and

Whereas September 1, 2005, marked the 40th anniversary of the first class of White House Fellows to serve this Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the 40th anniversary of the White House Fellows program and commends the White House Fellows for their continuing lifetime commitment to public service;

(2) acknowledges the legacy of leadership provided by White House Fellows over the years in their local communities, the Nation, and the world; and

(3) expresses appreciation and support for the continuing leadership of White House Fellows in all aspects of our national life in the years ahead.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2112. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2113. Mr. BOND (for himself, Mr. DORGAN, Mr. NELSON, of Florida, Mr. CORZINE, and Mr. TALENT) proposed an amendment to the bill H.R. 3058, supra.

SA 2114. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2115. Mr. ENZI proposed an amendment to the bill H.R. 3058, supra.

SA 2116. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2117. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2118. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2119. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2120. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2121. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2122. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2123. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra.

SA 2124. Mr. SCHUMER (for himself, Ms. SNOWE, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2125. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2126. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2127. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2128. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2129. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2130. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2131. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2132. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2133. Mr. DORGAN (for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS) proposed an amendment to the bill H.R. 3058, supra.

SA 2134. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2135. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2136. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2137. Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2138. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2139. Mr. BOND (for Mrs. BOXER) proposed an amendment to the bill H.R. 3058, supra.

SA 2140. Mr. BOND (for Ms. STABENOW) submitted an amendment intended to be proposed by Mr. BOND to the bill H.R. 3058, supra.

SA 2141. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra.

SA 2142. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools.

SA 2143. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2144. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2145. Mr. LAUTENBERG (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2146. Mr. ENSIGN (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2147. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2148. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2112. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, insert the following:

SEC. 1____.(a) Item number 14 of the table contained in section 1302 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended—

(1) by striking ''AK'' and inserting ''LA''; and

(2) by striking ''Planning, design, and construction of Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''.

(b) The table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended—

(1) in item number 2465—

(A) by striking ''AK'' and inserting ''LA''; and

(B) by striking ''Planning, design, and construction of Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''; and

(2) in item number 3677—

(A) by striking ''AK'' and inserting ''LA''; and

(B) by striking ''Planning, design, and construction of Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''.

(c) Item number 2 of the table contained in section 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended—

(1) by striking ''AK'' and inserting ''LA''; and

(2) by striking ''Improvements to the Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''.

(d) Sections 1949 and 4411 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) are repealed.

(e) Nothing in this section or an amendment made by this section affects the allocation of funds to any State other than the States of Alaska and Louisiana.

SA 2113. Mr. BOND (for himself, Mr. DORGAN, Mr. NELSON of Florida, Mr. CORZINE, and Mr. TALENT) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

Insert the following on page 348, after line 5, and renumber accordingly:

''SEC. 321. No funds in this Act may be used to support any federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: Provided, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: Provided further, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other sructures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of blight (including areas identified by units of local government for recovery from natural disasters) or brownsfields as defined in the Small Business Liability Relief and Brownsfields Revitalization Act (Pub. Law 107–118) shall be considered a public use for purposes of eminent domain: Provided further, That the Government Accountability Office, in consultation with the National Academy for Public Administration, organizations representing state and local governments, and property rights organizations, shall conduct a study to be submitted to the Congress within 12 months of the enactment of this Act on the nationwide use of eminent

domain, including the procedures used and the results accomplished on a state-by-state basis as well as the impact on individual property owners and on the affected communities.''

SA 2114. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310, line 16, insert '', and of which $4,500,000 shall be for capacity building activities administered by Habitat for Humanity International'' after ''tribal areas''.

SA 2115. Mr. ENZI proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place add the following:

____—ASSISTANCE FOR WORKERS AND SMALL BUSINESSES

Subtitle A—Minimum Wage Adjustment

SEC. ____01. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.70 an hour, beginning 6 months after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006; and

''(B) $6.25 an hour, beginning 18 months after such date of enactment;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 6 months after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006.

Subtitle B—Workplace Flexibility

SEC. ____11. SHORT TITLE.

This subtitle may be cited as the ''Workplace Flexibility Act''.

SEC. ____12. BIWEEKLY WORK PROGRAMS.

(a) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(B) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved.

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

''(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

''(c) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(d) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

''(5) EMPLOYEE.—The term 'employee' means an individual—

''(A) who is an employee (as defined in section 3);

''(B) who is not an employee of a public agency; and

''(C) to whom section 7(a) applies.

''(6) EMPLOYER.—The term 'employer' does not include a public agency.

''(7) OVERTIME HOURS.—The term 'overtime hours' when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

''(8) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(b) REMEDIES.—

(1) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by adding ''or'' after the semicolon; and

(C) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(A) in subsection (c)—

(i) in the first sentence—

(I) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A''; and

(II) by striking ''wages or unpaid overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and'';

(ii) in the second sentence, by striking ''wages or overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and''; and

(iii) in the third sentence—

(I) by inserting after ''first sentence of such subsection'' the following: '', or the second sentence of such subsection in the event of a violation of section 13A,''; and

(II) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or''; and

(B) in subsection (e)—

(i) in the second sentence, by striking ''section 6 or 7'' and inserting ''section 6, 7, or 13A''; and

(ii) in the fourth sentence, in paragraph (3), by striking ''15(a)(4) or'' and inserting ''15(a)(4), a violation of section 15(a)(3)(B), or''.

(c) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

SEC. ___13. CONGRESSIONAL COVERAGE.

Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and section 12(c)'' and inserting ''section 12(c), and section 13A''; and

(B) by striking paragraph (3);

(2) in subsection (b)—

(A) by striking ''The remedy'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the remedy''; and

(B) by adding at the end the following:

''(2) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOURS PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation.''; and

(3) in subsection (c), by striking paragraph (4).

SEC. ___14. TERMINATION.

The authority provided by this subtitle and the amendments made by this subtitle terminates 5 years after the date of enactment of this Act.

Subtitle C—Small Business Fair Labor Standards Act Exemption

SEC. ___21. ENHANCED SMALL BUSINESS EXEMPTION.

(a) IN GENERAL.—Section 3(s)(1)(A)(ii) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(1)(A)(ii)) is amended by striking ''$500,000'' and inserting ''$1,000,000''.

(b) EFFECT OF AMENDMENT.—The amendment made by subsection (a) shall not apply in any State that does not have in effect, or that does not subsequently enact after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006, legislation applying minimum wage and hours of work protections to workers covered by the Fair Labor Standards Act of 1938 as of the day before the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006.

SEC. ___22. SCOPE OF EMPLOYMENT.

Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)), in the matter preceding paragraph (1), and section 7(a)(1) of such Act (29 U.S.C. 207(a)(1)), are amended by striking ''who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce,'' and inserting ''who in any workweek is engaged in industrial homework subject to section 11(d) and engaged in commerce or in the production of goods for commerce, or who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce,''.

Subtitle D—Small Business Paperwork Reduction

SEC. ___31. SMALL BUSINESS PAPERWORK REDUCTION.

(a) IN GENERAL.—Section 3506 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act''), is amended by adding at the end the following:

''(j)(1) In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of such agency shall provide that no civil fine shall be imposed on the small business concern unless, based on the particular facts and circumstances regarding the violation—

''(A) the head of the agency determines that the violation has the potential to cause serious harm to the public interest;

''(B) the head of the agency determines that failure to impose a civil fine would impede or interfere with the detection of criminal activity;

''(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

''(D) the violation is not corrected on or before the date that is 6 months after the date of receipt by the small business concern of notification of the violation in writing from the agency; or

''(E) except as provided in paragraph (2), the head of the agency determines that the violation presents a danger to the public health or safety.

''(2)(A) In any case in which the head of an agency determines under paragraph (1)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (1)(E), determine that a civil fine should not be imposed on the small business concern if the violation is corrected within 24 hours of receipt of notice in writing by the small business concern of the violation.

''(B) In determining whether to provide a small business concern with 24 hours to correct a violation under subparagraph (A), the head of the agency shall take into account all of the facts and circumstances regarding the violation, including—

''(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

''(ii) whether the small business concern has made a good faith effort to comply with applicable laws, and to remedy the violation within the shortest practicable period of time; and

''(iii) whether the small business concern has obtained a significant economic benefit from the violation.

''(C) In any case in which the head of the agency imposes a civil fine on a small business concern for a violation with respect to which this paragraph applies and does not provide the small business concern with 24 hours to correct the violation, the head of the agency shall notify Congress regarding such determination not later than 60 days after the date that the civil fine is imposed by the agency.

''(3) With respect to any agency, this subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by such agency if such small business concern previously violated any requirement regarding collection of information by such agency.

''(4) In determining if a violation is a first-time violation for purposes of this subsection, the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.

''(5) Notwithstanding any other provision of law, no State may impose a civil penalty on a small business concern, in the case of a first-time violation by the small-business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.

''(6) For purposes of this subsection, the term 'small business concern' means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to such section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any violation occurring on or after January 1, 2006.

Subtitle E—Small Business Regulatory Relief

SEC. ___41. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule for which an agency head does not make a certification under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule, and shall entitle such publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet requirements to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that assist a small entity in meeting such requirements.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule

and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

Subtitle F—Minimum Wage Tip Credit

SEC. ___51. TIPPED WAGE FAIRNESS.

Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended—

(1) in paragraph (2), by inserting before the period the following: '': *Provided*, That the tips shall not be included as part of the wage paid to an employee to the extent they are excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee''; and

(2) adding at the end the following: ''Notwithstanding any other provision of this Act, any State or political subdivision of a State which, on and after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006, excludes all of a tipped employee's tips from being considered as wages in determining if such tipped employee has been paid the applicable minimum wage rate, may not establish or enforce the minimum wage rate provisions of such law, ordinance, regulation, or order in such State or political subdivision thereof with respect to tipped employees unless such law, ordinance, regulation, or order is revised or amended to permit a tip credit in an amount not less than an amount equal to—

''(A) the cash wage paid such employee which is required under such law, ordinance, regulation, or order on the date of enactment of such Act; and

''(B) an additional amount on account of tips received by such employee which amount is equal to the difference between such cash wage and the minimum wage rate in effect under such law, ordinance, regulation, or order or the minimum wage rate in effect under section 6, whichever is higher.''.

Subtitle G—Small Business Tax Relief

SEC. ___60. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

CHAPTER 1—PROVISIONS RELATING TO ECONOMIC STIMULUS FOR SMALL BUSINESSES

SEC. ___61. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Section 179 (relating to election to expense certain depreciable business assets) is amended by striking ''2008'' each place it appears and inserting ''2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. ___62. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) CASH ACCOUNTING PERMITTED.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

''(g) CERTAIN SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

''(A) IN GENERAL.—A taxpayer is an eligible taxpayer with respect to any taxable year if—

''(i) for all prior taxable years beginning after December 31, 2004, the taxpayer (or any predecessor) met the gross receipts test of subparagraph (B), and

''(ii) the taxpayer is not subject to section 447 or 448.

''(B) GROSS RECEIPTS TEST.—A taxpayer meets the gross receipts test of this subparagraph for any prior taxable year if the average annual gross receipts of the taxpayer for the 3-taxable-year period ending with such prior taxable year does not exceed $10,000,000. The rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of the preceding sentence.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the dollar amount contained in subparagraph (B) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use inventories under this section for a taxable year.

''(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If an eligible taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2004, such property shall be treated as a material or supply which is not incidental.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' has the meaning given such term by section 446(g)(2).''.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SEC. ___63. RECOVERY PERIOD FOR DEPRECIATION OF RESTAURANT BUILDINGS.

(a) 15-YEAR RECOVERY PERIOD.—Subparagraph (E) of section 168(e)(3) (relating to 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any section 1250 property which is a retail restaurant facility.''.

(b) RETAIL RESTAURANT FACILITY.—Subsection (e) of section 168 is amended by adding at the end the following new paragraph:

''(6) RETAIL RESTAURANT FACILITY.—The term 'retail restaurant facility' means any building if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iii) the following new item:

''(E)(iv) ..... 39''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to retail restaurant buildings placed in service, and to all improvements made, after September 30, 2004, and before October 1, 2009.

CHAPTER 2—REVENUE PROVISIONS

SEC. ___71. FRIVOLOUS TAX SUBMISSIONS.

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

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(i) a request for a hearing under—

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

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

''(ii) an application under—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. ___72. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

(2) by adding at the end the following new subsection:

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. ___73. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

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

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after March 2, 2005, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

SEC. ___74. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by striking section 7874 and inserting the following:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such

Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by striking the item relating to section 7874 and inserting the following:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

''(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

''(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

''(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

''(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

''(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

''(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

''(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

''(A) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State.''

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

(f) EFFECTIVE DATE.—Except as provided in subsection (e)(2), the amendments made by this section shall take effect as if included in the American Jobs Creation Act of 2004.

SEC. ___75. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

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

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the

amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after April 1, 2005.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after April 1, 2005.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after April 1, 2005, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. ___76. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term ''applicable taxpayer'' means a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A).

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. ___77. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

SEC. ___78. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

(2) by adding at the end the following new paragraph:

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

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

SA 2116. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, line 19, strike the period and insert '': Provided further, That of the funds provided under this paragraph $250,000 shall be available for the Learning Collaborative, to implement the Web Portal Technology Development Initiative in Daviess County schools (not for Daviess County generally).''.

SA 2117. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 17, insert '', of which $5,000,000 shall be made available to carry out the grant program authorized under section 158(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)) and not more than 10 percent of this amount may be used for administrative purposes:'' after ''Highway Trust Fund:''.

SA 2118. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. 18____. Notwithstanding any other provision of law, a vehicle that, with respect to weight or weight distribution characteristics, could lawfully operate in the State of North Dakota as of January 1, 2004, on United States Highway 52 (including the United States Highway 52 bypass of Jamestown, North Dakota) or on United States Highway 281 may operate on Interstate Route 94 in North Dakota between the intersection of Interstate Route 94 and United States Route 281 and the intersection of Interstate Route 94 and the United States Highway 52 bypass (including interchanges), under the same conditions as the vehicle may operate in that State on those United States highways (including that bypass).

SA 2119. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 230, after line 22, insert the following:

SEC. 109. Section 40128(e) of title 49, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.''.

SA 2120. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. 8_____.(a) The table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended in item number 4632 by striking ''Construct 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights-of-way'' and inserting ''For roadway improvements and construction of 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights-of-way''.

(b) The table contained in section 3044 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended in item number 516 by striking ''Dayton Wright Stop Plaza'' and inserting ''Downtown Dayton Transit Enhancements''.

SA 2121. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 348, between lines 5 and 6, insert the following:

SEC. 321. OPERATING FUND PROGRAM FINAL RULE.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of the Operating Fund program final rule published by the Department of Housing and Urban Development on September 19, 2005, 79 Fed. Reg. 54984, the 5 year schedule set out in the table appearing in §990.230(e) of the final rule shall commence 1 year from the Secretary's publication of guidance in a Federal Register notice defining specifically the manner in which public housing authorities shall comply with the provisions of §990.275 (Project-Based Management) and §990.280 (Project-Based Accounting and Budgeting).

(b) COMPLIANCE.—Each public housing authority shall be deemed in compliance with Subpart H of the final rule described in subsection (a), pending completion of the Secretary's review of the asset management demonstration submitted by the housing authority based on the guidance issued by the Secretary or the review conducted by the Secretary's independent assessor.

SA 2122. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, line 15, strike ''and is occupied primarily by elderly or disabled families''.

On page 338, line 19, insert '', and the contract for such payments shall be renewable by the owner under the provisions of section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)'' after ''in the property''.

SA 2123. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE ___—NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005

SEC. _01. SHORT TITLE.

This title may be cited as the ''Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005''.

SEC. _02. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. _03. RESTRICTION ON PRICE GOUGING.

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed $5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(c) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

SA 2124. Mr. SCHUMER (for himself, Ms. SNOWE, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, line 26, strike ''$60,000,000'' and all that follows through the period on page 221, line 2, and insert the following: ''$77,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That not to exceed $17,000,000 for fiscal year 2006 shall be used for adjustments to account for significantly increased costs as provided for in section 41737(e)(1) of title 49, United States Code: *Provided further*, That amounts provided in this Act for salaries and expenses for the Department of Transportation, the Department of the Treasury, the Department of Housing and Urban Development, the Judiciary, and the Executive Office of the President are reduced by an aggregate of $17,000,000 on a pro rata basis.''.

SA 2125. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, line 26, strike ''$60,000,000'' and all that follows through the period on page 221, line 2, and insert the following: ''$170,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That not to exceed $17,000,000 for fiscal year 2006 shall be used for adjustments to account for significantly increased costs as provided for in section 41737(e)(1) of title 49, United States Code.''.

SA 2126. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 226, line 17, strike ''$3,390,000,000'' and insert ''$3,468,904,000''.

On page 227, line 3, strike ''$71,096,000'' and insert ''$150,000,000''.

SA 2127. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310 line 11, strike the word ''and'' after the word ''LISC'' and insert '','' and on page 310 on line 12 after the words ''Enterprise Foundation'' insert '', and the Habitat for Humanity''; and on page 319 line 17 after the word ''Foundation'' insert the following ''Habitat for Humanity,''.

SA 2128. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310 line 11, strike the word ''and'' after the word ''LISC'' and insert '','' and on page 310 on line 12 after the words ''Enterprise Foundation'' insert '', and the Habitat for Humanity''.

SA 2129. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. ____. The item numbered 1832 in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended by inserting '', in fiscal year 2006'' after ''Virginia''.

SA 2130. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. ____. The item numbered 2551 in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended by inserting ''in fiscal year 2006'' after ''2007''.

SA 2131. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. 844. EMINENT DOMAIN.

None of the funds made available in this Act may be used by any state, county, municipality, city, town or other political subdivision that engages or participates in the taking of private property by eminent domain without the consent of the owner and conveys or leases such property to another private person or entity for commercial, financial or retail enterprise, or to increase tax revenue, tax base, employment, or general economic health, unless the taking involves (a) conveying private property for the occupation and enjoyment of the land by the general public, or by public agencies, such as for a roadway, waterway, airport, school, hospital, military base, prison, public park, or a government building; or (b) conveying private property to an entity, such as a state or federally regulated public utility or common carrier, for the creation or functioning of public service infrastructure, such as for public utilities, waste treatment facilities, railroads, or transportation of natural gas, crude oil or refined petroleum products; or (c) condemning property that constitutes a severe threat to public health and safety, such as structures that are beyond repair or otherwise unfit for human habitation or use; or (d) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building; or (e) acquiring abandoned property.

SA 2132. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 290, between lines 14 and 15, insert the following:

SEC. 209A.(a) The Senate makes the following findings:

(1) For a voluntary, self-reporting tax system to work, taxpayers must believe that all taxpayers pay their fair share of taxes.

(2) Many States base State income tax liability on amounts reported with respect to Federal income taxes, with the result that amounts not collected with respect to Federal income taxes are also not collected with respect to State income taxes at a time when many States are hard-pressed to meet their many financial demands.

(3) A study conducted by the National Research Program of the Internal Revenue Service determined that taxpayer non-compliance costs the Federal Government over $300,000,000,000 each year in uncollected taxes.

(4) The National Research Program study estimates that the tax shortfall attributable to individual income taxes is as high as $100,000,000,000 with respect to business income and more than $50,000,000,000 with respect to non-business income.

(5) An analysis published in 2005 by tax law Professors Joseph Dodge and Jay Soled estimated that the loss of Federal income tax revenue associated with the under reporting of capital gains is $250,000,000,000 over the coming decade.

(6) Non-compliance places an unfair burden on all taxpayers.

(7) Prior to launching the National Research Program, the Internal Revenue Service did not have in place an automated system to verify and audit capital gains information reported on Schedule D of Federal income tax returns, and now only examines Schedule D information when it is part of a larger tax audit.

(8) The reliance on random audits has created an impression in the investment community that enforcement of capital gains is limited or, worse, non-existent, and has also created an environment of inaccuracy and non-compliance with respect to Schedule D.

(9) Internal Revenue Service efforts to reduce the tax gap focus on increasing field examinations and audits, particularly of high-income taxpayers.

(10) One of the key components of National Research Program was the introduction, on a pilot basis, of a ''smart'' process to assist with the determination of the correct cost basis of capital gains and losses reported on Schedule D.

(b) It is the sense of the Senate that the Internal Revenue Service should utilize processes and technological tools that assist with the independent verification of taxpayer data, including the cost basis information of capital gains and losses reported on Schedule D, that will comply with all of the applicable rules and methods of the Internal Revenue Code of 1986 to ensure that all taxpayers pay their fair share of Federal income tax and to decrease the shortfall in tax revenues to the benefit of all taxpayers.

SA 2133. Mr. DORGAN (for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. ____. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to—

(1) the administration of general or specific licenses for travel or travel-related transactions;

(2) section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515; or

(3) transactions in relation to any business travel covered by section 515.560(g) of such part 515.

SA 2134. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 356, between lines 4 and 5, insert the following:

SEC. 408.(a) The division of the court shall release to the Congress and to the public not later than 60 days after the date of enactment of this Act all portions of the final report of the independent counsel of the investigation of Henry Cisneros made under section 594(h) of title 28, United States Code, except for any such portions that contain information of a personal nature that the division of the court determines the disclosure of which would cause a clearly unwarranted invasion of privacy that outweighs the public interest in a full accounting of this investigation. Upon the release of the final report, the final report shall be published pursuant to section 594(h)(3) of title 28, United States Code.

(b)(1) After the release and publication of the final report referred to in subsection (a), the independent counsel shall continue his office only to the extent necessary and appropriate to perform the noninvestigative and nonprosecutorial tasks remaining of his statutory duties as required to conclude the functions of his office.

(2) The duties referred to in paragraph (1) shall specifically include—

(A) the evaluation of claims for attorney fees, pursuant to section 593(l) of title 28, United States Code;

(B) the transfer of records to the Archivist of the United States pursuant to section 594(k) of title 28, United States Code;

(C) compliance with oversight obligations pursuant to section 595(a) of title 28, United States Code; and

(D) preparation of statements of expenditures pursuant to section 595(c) of title 28, United States Code.

(3) Upon completion of his remaining statutory duties, the independent counsel shall move the division of the court to terminate his office.

SA 2135. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 8 and 9, insert the following:

SEC. 122.(a) The Secretary of Transportation shall conduct a study regarding—

(1) Federal and State efforts to waive or relax truck weight and length requirements on highways within the Eisenhower Interstate System, including the timing of such waivers, during the response to Hurricane Katrina and other emergencies;

(2) the extent to which differing regulatory responses by States confused first responders and other aid providers during the response to Hurricane Katrina and other emergencies;

(3) the extent of the Secretary of Transportation's authority to waive or relax truck weight and length requirements on highways in the Eisenhower Interstate System; and

(4) the need for the authority described in paragraph (3) in the event of an emergency.

(b) Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress that contains—

(1) the results of the study conducted under subsection (a);

(2) recommendations regarding the appropriate extent and form of the waiver authority described in subsection (a)(3) in the event of an emergency; and

(3) proposed legislation to provide such authority.

SA 2136. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. ____. None of the funds made available by this Act shall be used to enter into any lease for a facility under the jurisdiction of the General Services Administration unless the Administrator of General Services first submits to Congress a report demonstrating that the life of the lease would cost less than the full and total costs of each considered option.

SA 2137. Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 406, between lines 7 and 8, insert the following:

SEC. 724. PAYMENTS TO FEDERAL CONTRACTORS WITH FEDERAL TAX DEBT.

The General Services Administration, in conjunction with the Financial Management Service, shall develop procedures to subject purchase card payments to Federal contractors to the Federal Payment Levy Program.

SEC. 520. REPORTING OF AIR TRAVEL BY FEDERAL GOVERNMENT EMPLOYEES.

(a) ANNUAL REPORTS REQUIRED.—The Administrator of General Services shall submit annually to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on all first class and business class travel by employees of each agency undertaken at the expense of the Federal Government.

(b) CONTENT.—The reports submitted pursuant to subsection (a) shall include, at a minimum, with respect to each travel by first class or business class—

(1) the names of each traveler;

(2) the date of travel;

(3) the points of origination and destination;

(4) the cost of the first class or business class travel; and

(5) the cost difference between such travel and travel by coach class fare available under contract with the General Services Administration or, if no contract is available, the lowest coach class fare available.

(c) AGENCY DEFINED.—In this section, the term ''agency'' has the meaning given such term in section 5701(1) of title 5, United States Code.

SA 2138. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, line 15, strike ''in accordance'' and all that follows through ''Act'' on line 17.

SA 2139. Mr. BOND (for Mrs. BOXER) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 219, line 5, strike the period and insert the following: '': *Provided further*, That the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Administrator of the Federal Aviation Administration, not later than 60 days after the date of enactment of this Act, shall establish procedures with airport directors located at United States airports that have incoming flights from any country that has had cases of avian flu and with air carriers that provide such flights to deal with situations where a passenger on one of the flights has symptoms of avian flu .''.

SA 2140. Mr. BOND (for Ms. STABENOW) submitted an amendment intended to be proposed by Mr. BOND to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 316, line 26, after ''Provided,'' insert ''That of the amount made available under this heading, $10,000,000 shall be made available to carry out section 203 of Public Law 108–186,''.

SA 2141. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following: Page 406, line 8 insert a new paragraph.

Sec. 724. The United States Interagency Council on Homelessness shall conduct an assessment of the guidance disseminated by the Department of Education, the Department of Housing and Urban Development, and other related federal agencies for grantees of homeless assistance programs on whether such guidance is consistent with and does not restrict the exercise of education rights provided to parents, youth, and children under subtitle B of title VII of the McKinney-Vento Act: *Provided*, That such assessment shall address whether the practices, outreach, and training efforts of said agencies serve to protect and advance such rights: *Provided further*, That the Council shall submit to the House and Senate Committees on Appropriations an interim report by May 1, 2006, and a final report by September 1, 2006.

SA 2142. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State High Risk Pool Funding Extension Act of 2005''.

SEC. 2. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

''SEC. 2745. RELIEF FOR HIGH RISK POOLS.

''(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of the State High Risk Pool Funding Extension Act of 2005 for the State's costs of creation and initial operation of such a pool.

''(b) GRANTS FOR OPERATIONAL LOSSES.—

''(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

''(A) restricts premiums charged under the pool to no more than 200 percent of the premium for applicable standard risk rates;

''(B) offers a choice of two or more coverage options through the pool; and

''(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State in connection with operation of the pool after the end of the last fiscal year for which a grant is provided under this paragraph;

the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

''(2) ALLOTMENT.—Subject to paragraph (4), the amounts appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) for a fiscal year shall be allotted and made available to the States (or the entities that operate the high risk pool under applicable State law) that qualify for a grant under paragraph (1) as follows:

''(A) An amount equal to 40 percent of such appropriated amount for the fiscal year shall be allotted in equal amounts to each qualifying State that is one of the 50 States or the District of Columbia and that applies for a grant under this subsection.

''(B) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to such a State bears the same ratio to such appropriated amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals (as determined by the Secretary) in all qualifying States that so apply.

''(C) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to a State bears the same ratio to such appropriated amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools (as determined by the Secretary) in all qualifying States that so apply.

''(3) SPECIAL RULE FOR POOLS CHARGING HIGHER PREMIUMS.—In the case of a qualified high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risks, the State shall use at least 50 percent of the amount of the grant provided to the State to carry out this subsection to reduce premiums for enrollees.

''(4) LIMITATION FOR TERRITORIES.—In no case shall the aggregate amount allotted and made available under paragraph (2) for a fiscal year to States that are not the 50 States or the District of Columbia exceed $1,000,000.

''(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

''(1) IN GENERAL.—In the case of a State that is one of the 50 States or the District of Columbia, that has established a qualified high risk pool, and that is receiving a grant under subsection (b)(1), the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

''(2) BENEFITS.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

''(A) Low-income premium subsidies.

''(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

''(C) An expansion or broadening of the pool of individuals eligible for coverage, such as through eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

''(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

''(E) Increased benefits.

''(F) The establishment of disease management programs.

''(3) ALLOTMENT; LIMITATION.—The Secretary shall allot funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) among States qualifying for a grant under paragraph (1) in a manner specified by the Secretary, but in no case shall the amount so allotted to a State for a fiscal year exceed 10 percent of the funds so appropriated for the fiscal year.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of the enactment of the State High Risk Pool Funding Extension Act of 2005, is in the process of implementing a program to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

''(d) FUNDING.—

''(1) APPROPRIATION FOR FISCAL YEAR 2006.—There are authorized to be appropriated and there are appropriated for fiscal year 2006—

''(A) $15,000,000 to carry out subsection (a); and

''(B) $75,000,000, of which, subject to paragraph (4)—

''(i) two-thirds of the amount appropriated shall be made available for allotments under subsection (b)(2); and

''(ii) one-third of the amount appropriated shall be made available for allotments under subsection (c)(3).

''(2) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2007 THROUGH 2010.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2007 through 2010, of which, subject to paragraph (4)—

''(A) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

''(B) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(3).

''(3) AVAILABILITY.—Funds appropriated for purposes of carrying out this section for a fiscal year shall remain available for obligation through the end of the following fiscal year.

''(4) REALLOTMENT.—If, on June 30 of each fiscal year for which funds are appropriated under paragraph (1)(B) or (2), the Secretary determines that all the amounts so appropriated are not allotted or otherwise made available to States, such remaining amounts shall be allotted and made available under subsection (b) among States receiving grants under subsection (b) for the fiscal year based upon the allotment formula specified in such subsection.

''(5) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

''(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(f) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such report shall include information on the distribution of such grants among States and the use of grant funds by States.

''(g) DEFINITIONS.—In this section:

''(1) QUALIFIED HIGH RISK POOL.—

''(A) IN GENERAL.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that a State may elect to meet the requirement of subparagraph (A) of such section (insofar as it requires the provision of coverage to all eligible individuals) through providing for the enrollment of eligible individuals through an acceptable alternative mechanism (as defined for purposes of section 2744) that includes a high risk pool as a component.

''(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

''(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

''(B) that is established using reasonable actuarial techniques; and

''(C) that reflects anticipated claims experience and expenses for the coverage involved.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.''.

SA 2143. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE XX___—NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005

SEC. __01. SHORT TITLE.

This title may be cited as the ''Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005''.

SEC. __02. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. __03. RESTRICTION ON PRICE GOUGING.

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed $5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(c) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

(d) This section becomes effective 1 day after enactment.

SA 2144. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 252, between lines 11 and 12, insert the following: ''*Provided further,* That the Corporation shall not create a wholly owned Northeast Corridor subsidiary or transfer the Northeast Corridor infrastructure into such subsidiary unless such activities are specifically authorized by an Act of Congress:''.

SA 2145. Mr. LAUTENBERG (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 9, beginning with ''expended:'' strike through line 17 on page 252 and insert ''expended.''.

SA 2146. Mr. ENSIGN (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 293, after line 25, add the following:

SEC. _____. The Internal Revenue Service shall provide taxpayers with free individual tax electronic preparation and filing services only through the Free File program and the Internal Revenue Service's Taxpayer Assistance Centers and Volunteer Income Tax Assistance program.

SA 2147. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 17, insert ''of which $13,679,000 shall be for the 'New Car Assessment Program' (including $6,000,000, which shall remain available until September 30, 2007) and $1,000,000 shall be for the 'Vehicle Crash Causation Study':'' after ''Highway Trust Fund''.

SA 2148. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, insert the following:

SEC. 1___. Section 127(a) of title 23, United States Code, is amended by adding at the end the following:

''(13) ARKANSAS.—During the period beginning on the date of enactment of this paragraph and ending on September 30, 2009, the State of Arkansas may allow the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of cotton seed on Interstate Route 555 during the months of August through December to cross the St. Francis Floodway from Marked Tree to Payneway, when that route is open to traffic.''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, October 27, 2005 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony from the Administration on hurricane recovery efforts related to energy and to discuss energy policy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Lisa Epifani 202–224–5269 or Shannon Ewan at 202–224–7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, November 3, 2005 at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to evaluate and receive a status report on the Environmental Management Programs of the Department of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Clint Williamson 202–224–7556 or Steve Waskiewicz at 202–228–6195.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a business meeting during the session of the Senate on Wednesday, October 19, 2005 at 10 a.m. in SR–328A, Russell Senate Office Building. The purpose of this meeting will be to consider an original bill to comply with the Committee's reconciliation instructions as contained in H. Con. Res. 95.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, October 19 at 10 a.m.

The purpose of this meeting is to consider reconciliation legislation and any other pending calendar business which may be ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 19, 2005, at 10 a.m. to hold a hearing on Iraq in U.S. Foreign Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 19, 2005, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment and Workplace Safety, be authorized to hold a hearing during the session of the Senate on Wednesday, October 19th, at 2 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Reporters' Privilege Legislation: An Additional Investigation of Issues and Implications'' on Wednesday, October 19, 2005 at 10:30 a.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Chuck Rosenberg, United States Attorney for the Southern District of Texas, on behalf of the United States Department of Justice Houston, TX.

Panel II: Judith Miller, Investigative Reporter and Senior Writer, The New York Times, New York, NY; David Westin, President, ABC News, New York, NY; Joseph E. diGenova, Founding Partner, diGenova & Toensing LLP, Washington, DC; Anne Gordon, Managing Editor, Philadelphia Inquirer, Philadelphia, PA; Dale Davenport, Editorial Page Editor, The Patriot-News, Harrisburg, PA; and Steven D. Clymer, Professor of Law, Cornell Law School Myron Taylor Hall, Ithaca, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 19, 2005, at 2:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. BOND. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet on Wednesday, October 19, 2005, to conduct a hearing on ''Video Competition in 2005—More Consolidation, or New Choices for Consumers?'' at 2 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Mr. Glenn Britt, Chairman and CEO, Time Warner Cable, Stamford; CT; Mr. Kyle McSlarrow, President and CEO, NCTA, Washington, DC; Mr. Walter McCormick, Jr., President and CEO, United States Telecom Association, Washington, DC; Mr. Doron Gorshein, President and CEO, The America Channel, LLC, Heathrow, FL; Mr. Peter Aquino, President and CEO, RCN Corporation, Herndon, VA; Mr. Scott Cleland, Chief Executive Officer, Precursor, Washington, DC; and Dr. Mark Cooper, Director of Research, Consumer Federation of America, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. ALLARD. Mr. President, I ask unanimous consent that Sam Tatevosyan of my staff be given floor privileges for the duration of morning business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I ask unanimous consent that Cathy Poon of my staff be granted the privilege of the floor for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I ask unanimous consent for floor privileges for a fellow in my office, Chelsea Maughan.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN ENROLLED BILLS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the junior Senator from Oklahoma be authorized to sign duly enrolled bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE COST SHARING AND WELFARE EXTENSION ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Chair now lay before the Senate the House message to accompany H.R. 3971.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

H.R. 3971

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3971) entitled ''An Act to provide assistance to individuals and States affected by Hurricane Katrina'', with House amendments to Senate amendments.

Mr. MCCONNELL. I ask unanimous consent that the Senate concur in the House amendments, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 109–59, Sec. 1909(b)(2)(A)(vi), appoints the following individuals to serve as members of the National Surface Transportation Policy and Revenue Study Commission: Francis McArdle of New York and Tom R. Shancke of Nevada.

PARTICIPATION OF JUDICIAL BRANCH EMPLOYEES IN FEDERAL LEAVE TRANSFER PROGRAM

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 227, S. 1736.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1736) to provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1736) was read the third time and passed, as follows:

S. 1736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEAVE TRANSFER PROGRAM IN DISASTERS AND EMERGENCIES.

Section 6391 of title 5, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) After consultation with the Administrative Office of the United States Courts, the Office of Personnel Management shall provide for the participation of employees in the judicial branch in any emergency leave transfer program under this section.''.

SUPPORTING THE GOALS AND IDEALS OF LIGHTS ON AFTER-SCHOOL

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 280 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 280) supporting ''Lights on Afterschool,'' a national celebration of after school programs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 280) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 280

Whereas high quality after school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high quality after school programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high quality after school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high quality after school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas ''Lights On Afterschool!'', a national celebration of after school programs held on October 20, 2005, promotes the critical importance of high quality after school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States have no place to go after school; and

Whereas many after school programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved That the Senate supports the goals and ideals of ''Lights On Afterschool!'' a national celebration of after school programs.

HONORING AND THANKING JAMES PATRICK ROHAN

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 281 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 281) honoring and thanking James Patrick Rohan.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas Assistant Chief of Police James Patrick Rohan, a native of the State of Maryland, has served the United States Capitol Police for thirty (30) years with distinction, having been appointed as a Private on December 8, 1975;

Whereas Assistant Chief Rohan, having risen through the ranks to his current position over his longstanding career, has been instrumental in a variety of initiatives designed to enhance the security of the Congress;

Whereas Assistant Chief Rohan, who holds a Master of Science Degree in Justice/Law Enforcement from the American University and a Bachelor of Arts Degree in Law Enforcement from the University of Maryland, as well as numerous specialized law enforcement and security training accomplishments and honors: Now, therefore, be it

Resolved, That the Senate hereby honors and thanks James Patrick Rohan and his wife, Cecilia, and children, Ben, Natalie, Eric and David, and his entire family, for a lifelong professional commitment of service to the United States Capitol Police and the United States Congress.

FAIR ACCESS FOSTER CARE ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1894 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1894) to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. Mr. President, I rise today in support of the Fair Access Foster Care Act of 2005.

Therapeutic foster care is foster care for children with special medical, psychological, emotional, and social needs. These children need comprehensive support and attention, requiring a great deal of commitment and sacrifice from foster care parents.

Prior to the placement of a child, a potential therapeutic foster care parent must complete a certification process that involves a background check, a training program, and at least two home studies.

At Choices for Life Foster Care, Inc., a for-profit provider in Oklahoma City, counselors are in the home a minimum of 2 hours every other week once a child has been placed.

Generally therapeutic foster care children are not permitted to attend daycare and require ''line of sight'' supervision. That is, therapeutic foster care children must be in view of the foster parents at all times, except when attending school and other approved activities.

Recruiting parents to provide therapeutic foster care is a never-ending job. There are always children waiting for a match to be found. Therapeutic foster care children stay in crisis shelters for the transition period, adding a great deal of stress to their lives.

Each State has a different standard for determining whether children need therapeutic foster care. Once a child is identified, most State governments contract with private agencies to place the child in a home.

In my State of Oklahoma, fifteen agencies contract with the State government to provide therapeutic foster care services. Of those 15 agencies, 5 operate under a for-profit status, 10 operate under a nonprofit status. The bottom line is that 62 percent of therapeutic foster care children are managed by for-profit agencies, and we must maintain the availability of care for these children.

Therapeutic foster care agencies receive funding from Medicaid and Title IV–E maintenance payments from the United States Department of Health and Human Service, HHS. The 1996 Welfare Reauthorization Act attempted to correct a discrepancy between treatment of children managed by for-profit agencies and by nonprofit agencies via removing the word ''nonprofit'' from title 42 of the United States Social Security Code. Unfortunately, the deletion was only made in one of the three sections addressing this issue, thus causing therapeutic foster care agencies to remain subjected to arbitrary regulation.

Only recently was it brought to the attention of Oklahoma's Department of Human Services that additional legal changes were needed. Most State governments face the same problem.

My bill amends the United States Code to allow all therapeutic foster care agencies to receive maintenance payments from the United States Department of Health and Human Services.

The Congressional Budget Office has indicated that any costs associated with this legislation would be insignificant.

There are over 500,000 children in foster care today. A large number of these children require therapeutic care. The business model of for-profit agencies should not prohibit Title IV–E maintenance cost reimbursement. Now is not the time to prevent highly qualified agencies from placing these children in safe homes.

I have long been dedicated to quality care for my constituents in Oklahoma and across America. My bill to help alleviate the flu vaccine shortage, my

work to expand access to life-saving cardiac defibrillators, and my bill to freeze the Federal medical assistance percentage for 10 years to ensure that States continue to receive adequate Federal funding highlight this commitment.

I thank Mr. ROCKEFELLER, Mr. CRAIG, and Ms. LANDRIEU for cosponsoring this bill.

Please join me in supporting this bill to assist on out States in the endeavor to serve these five-hundred-thousand-plus vulnerable children.

Mr. MCCONNELL. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1894) was read the third time and passed, as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Access Foster Care Act of 2005''.

SEC. 2. FOSTER CARE MAINTENANCE PAYMENTS TO PRIVATE FOR-PROFIT AGENCIES.

Section 472(b) of the Social Security Act (42 U.S.C. 672(b)) is amended by striking ''nonprofit'' each place it appears.

STATE HIGH RISK POOL FUNDING EXTENSION ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 181, H. R. 3204.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H. R. 3204) to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I am pleased today to bring to the floor an amendment to H.R. 3204, The State High Risk Pool Funding Extension Act of 2005. The Senate companion, S. 288, sponsored by Senators GREGG and BAUCUS, was approved unanimously in February by the Health, Education, Labor, and Pensions Committee. A similar bill also unanimously passed the full Senate in the last Congress.

The amendment to H. R. 3204 that I bring before us today reflects much careful and bipartisan work, not only within the Senate, but with the House as well. After we pass this amendment and send it to the House, I expect our colleagues in that Chamber will approve it quickly, thus paving the way for a swift trip to the President's desk and into law.

This legislation extends and makes improvements in the Federal Health Insurance High Risk Pool Grant Program originally enacted in 2002 as part of the Trade Adjustment Assistance Reform Act, TAA. This grant program provides critical assistance States both for the start-up of new risk pools and for the continued operation of existing ones.

State high risk pools are State-created nonprofit entities that provide access to health insurance for persons who are not covered under an employer plan or a government program, and whose medical profile makes it very difficult or impossible for them to find coverage in the individual insurance market.

These individuals are often the sickest and most vulnerable among us, and who, without access to high risk pools would otherwise fall through the cracks and be forced to bankrupt themselves onto the Medicaid rolls.

Nearly 200,000 people have purchased health insurance policies through high risk pools nationwide. In my home State of Wyoming more than 650 people have comprehensive health insurance thanks to the Wyoming Health Insurance Pool.

This insurance covers doctor visits, prescription drugs, home health visits, rehabilitation services, mental health, physical therapy, and maternity care. It is meaningful insurance coverage for people who would otherwise be uninsurable.

Under these programs, individuals pay capped premiums for their coverage, but such premiums generally cover only 50 to 60 percent of the total cost of their care. The rest of the expense must be made up by other revenues, typically through an annual assessment of insurance companies.

The current Federal Risk Pool Grant Program authorized up to $40 million annually to help existing State high risk pools ease the steep losses requiring subsidies that they incur in these programs each year. Last year alone, total combined losses in State risk pools was more than $539 billion, an increase of 12 percent over the previous year.

The legislation before us today would increase authorization for grants to existing risk pool programs from $40 million to $75 million per year through 2009. It would also extend through 2006 authorization for $15 million annually for seed grants to States without risk pools that wish to establish them. Under this program, States would be eligible for grants of up to $1 million for the creation and initial operation of a risk pool.

It is critical that Congress act swiftly on this important bill. Authorization for the current grant program expired at the end of fiscal year 2004, and all remaining funds will be exhausted upon the expiration of fiscal year 2005. Moreover, many State legislatures are assessing whether or not to move ahead with risk pool programs. Passage of this legislation would send to the States a strong signal of continued and renewed Federal commitment to such programs.

In addition to extending and increasing authorization for Federal grant assistance, our legislation also makes a certain targeted improvements in how the Federal risk pool grants operate. For example, the bill would allow States a greater degree of flexibility in how they apply Federal grant dollars to their risk pool programs, and in the requirements for qualifying for grants. In part, this greater flexibility is an acknowledgement that State programs do vary and that a number of States are experimenting with new and innovative approaches in how they set up and administer their risk pool programs—approaches that in some cases may not fit easily into the Federal grant parameters as they are currently drafted.

The legislation also makes some adjustments in the way grant funds are allocated, such that each State will now receive a sufficient incentive to establish or improve its high risk pool. At the same time, the revised allocation system recognizes that some states have greater numbers of uninsured than others, and provides extra assistance to States that operate the largest risk pools.

The bill also includes a new bonus pool that can be tapped by States to offer lower premiums or improved benefits in connection with their high-risk pool, rather than requiring that all funds go to help defray operational losses. Up to one third of State's annual grant award could be used for this purpose.

The legislation before us today is the same as that which drew unanimous and bipartisan support in our committee, both in this Congress and the last. It would extend and improve a program that has helped thousands of medically vulnerable Americans maintain lifesaving health coverage and avoid potentially devastating financial ruin. It is an important part of this Congress's comprehensive efforts to make health care and health insurance more affordable and accessible for everyone.

I commend Senators GREGG and BAUCUS for their effective leadership on this important legislation, and to our committee's ranking member, Senator KENNEDY, for his hard work and commitment. I urge all of my colleagues to join me in giving this much needed legislation our full support.

Finally, credit should go as well to a number of current and past Senate staff, some of whom have worked for several years to bring this bill to fruition. We greatly appreciate the work of many, including David Bowen, David Fisher, Kim Monk, Stephen Northrup, Andrew Patzman, Stacey Sachs, Conwell Smith, and Vince Ventimiglia.

I urge the Senate to give this much needed legislation the strong support it deserves.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Enzi amendment at the desk be agreed to, the bill, as amended, be read a third

time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2142) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State High Risk Pool Funding Extension Act of 2005''.

SEC. 2. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

''SEC. 2745. RELIEF FOR HIGH RISK POOLS.

''(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of the State High Risk Pool Funding Extension Act of 2005 for the State's costs of creation and initial operation of such a pool.

''(b) GRANTS FOR OPERATIONAL LOSSES.—

''(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

''(A) restricts premiums charged under the pool to no more than 200 percent of the premium for applicable standard risk rates;

''(B) offers a choice of two or more coverage options through the pool; and

''(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State in connection with operation of the pool after the end of the last fiscal year for which a grant is provided under this paragraph;

the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

''(2) ALLOTMENT.—Subject to paragraph (4), the amounts appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) for a fiscal year shall be allotted and made available to the States (or the entities that operate the high risk pool under applicable State law) that qualify for a grant under paragraph (1) as follows:

''(A) An amount equal to 40 percent of such appropriated amount for the fiscal year shall be allotted in equal amounts to each qualifying State that is one of the 50 States or the District of Columbia and that applies for a grant under this subsection.

''(B) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to such a State bears the same ratio to such appropriated amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals (as determined by the Secretary) in all qualifying States that so apply.

''(C) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to a State bears the same ratio to such appropriated amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools (as determined by the Secretary) in all qualifying States that so apply.

''(3) SPECIAL RULE FOR POOLS CHARGING HIGHER PREMIUMS.—In the case of a qualified high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risks, the State shall use at least 50 percent of the amount of the grant provided to the State to carry out this subsection to reduce premiums for enrollees.

''(4) LIMITATION FOR TERRITORIES.—In no case shall the aggregate amount allotted and made available under paragraph (2) for a fiscal year to States that are not the 50 States or the District of Columbia exceed $1,000,000.

''(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

''(1) IN GENERAL.—In the case of a State that is one of the 50 States or the District of Columbia, that has established a qualified high risk pool, and that is receiving a grant under subsection (b)(1), the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

''(2) BENEFITS.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

''(A) Low-income premium subsidies.

''(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

''(C) An expansion or broadening of the pool of individuals eligible for coverage, such as through eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

''(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

''(E) Increased benefits.

''(F) The establishment of disease management programs.

''(3) ALLOTMENT; LIMITATION.—The Secretary shall allot funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) among States qualifying for a grant under paragraph (1) in a manner specified by the Secretary, but in no case shall the amount so allotted to a State for a fiscal year exceed 10 percent of the funds so appropriated for the fiscal year.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of the enactment of the State High Risk Pool Funding Extension Act of 2005, is in the process of implementing a program to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

''(d) FUNDING.—

''(1) APPROPRIATION FOR FISCAL YEAR 2006.—There are authorized to be appropriated and there are appropriated for fiscal year 2006—

''(A) $15,000,000 to carry out subsection (a); and

''(B) $75,000,000, of which, subject to paragraph (4)—

''(i) two-thirds of the amount appropriated shall be made available for allotments under subsection (b)(2); and

''(ii) one-third of the amount appropriated shall be made available for allotments under subsection (c)(3).

''(2) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2007 THROUGH 2010.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2007 through 2010, of which, subject to paragraph (4)—

''(A) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

''(B) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(3).

''(3) AVAILABILITY.—Funds appropriated for purposes of carrying out this section for a fiscal year shall remain available for obligation through the end of the following fiscal year.

''(4) REALLOTMENT.—If, on June 30 of each fiscal year for which funds are appropriated under paragraph (1)(B) or (2), the Secretary determines that all the amounts so appropriated are not allotted or otherwise made available to States, such remaining amounts shall be allotted and made available under subsection (b) among States receiving grants under subsection (b) for the fiscal year based upon the allotment formula specified in such subsection.

''(5) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

''(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(f) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such report shall include information on the distribution of such grants among States and the use of grant funds by States.

''(g) DEFINITIONS.—In this section:

''(1) QUALIFIED HIGH RISK POOL.—

''(A) IN GENERAL.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that a State may elect to meet the requirement of subparagraph (A) of such section (insofar as it requires the provision of coverage to all eligible individuals) through providing for the enrollment of eligible individuals through an acceptable alternative mechanism (as defined for purposes of section 2744) that includes a high risk pool as a component.

''(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

''(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

''(B) that is established using reasonable actuarial techniques; and

''(C) that reflects anticipated claims experience and expenses for the coverage involved.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.''.

The bill (H. R. 3204), as amended, was read the third time and passed.

ORDERS FOR THURSDAY, OCTOBER 20, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, October 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 3058, the Transportation-Treasury appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President, we have made substantial progress on the bill today. Tomorrow morning, when we return to the bill, we have several Senators prepared to offer amendments. I hope that we can debate and vote on those amendments with reasonable time agreements. There is a chance we can finish this bill tomorrow night, and the majority leader has indicated that if we wrap up the Transportation-Treasury bill tomorrow evening, we will not be voting on Friday. If we are able to do that, he will move on Friday to another bill, and we will not be having votes that day. Hopefully, that will be adequate incentive for all of us to finish our work on this particular bill no later than tomorrow night.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:55 p.m., adjourned until Thursday, October 20, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 19, 2005:

DEPARTMENT OF STATE

ANNE W. PATTERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS), VICE ROBERT B. CHARLES.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. LANCE L. SMITH, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED AS CHAPLAINS IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

GARY L. GROSS, 0000

To be lieutenant colonel

NEAL J. BUCKON, 0000
MICHAEL J. CERRONE, 0000
FRANK R. SPENCER, 0000
VALERIE B. STJOHN, 0000
GARY R. STUDNIEWSKI, 0000
AVI S. WEIS, 0000

To be major

MARK N. AWDYKOWYZ, 0000
RICHARD J. BENDORF, 0000
JAMES R. BOULWARE, 0000
GARY W. BRAGG, 0000
JOEY T. BYRD, 0000
JOHN L. CONGDON, 0000
DOUGLAS C. FENTON, 0000
MICHAEL L. FRAILEY, 0000
RICHARD P. GRAVES, 0000
DAVID S. HARSDORF, 0000
JOSE G. HERRERA, 0000
TIMOTHY L. HUBBS, 0000
CARLOS C. HUERTA, 0000
PAUL K. HURLEY, 0000
DANIEL C. HUSSEY, 0000
JERALD P. JACOBS, 0000
STEVEN R. JERLES, 0000
EDWARD D. NORTHROP, 0000
JAMES E. ONEAL, 0000
MATTHEW P. PAWLIKOWSKI, 0000
PEKOLA F. ROBERTS, 0000
ADGER S. TURNER, 0000